

RESOLUTION NO. _____

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
AMENDING HOUSING MITIGATION IN-LIEU 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 an Office and Industrial Housing Mitigation Program and a Residential Housing Mitigation Program, described in the Housing Element of the General Plan, requiring the payment of housing mitigation fees by non-residential development and residential projects with six units or less or with fractional unit requirements, and requiring the provision of very low income, low income, median income, and moderate income housing in developments with seven units or more (the "Housing Mitigation Program"); and

WHEREAS, the City's General Plan Housing Element contains goals and policies (including Goal HE-2 and Policy HE 2.3) calling for development of housing that is affordable to a diversity of Cupertino households; and

WHEREAS, the Housing Element contains strategies for achieving these goals and policies, including implementation of the Office and Industrial Housing Mitigation Program described in Strategy HE 2.3.2, which requires that developers of office, commercial, and industrial space pay a mitigation fee, which will then be deposition into the City's Below Market Rate Affordable Housing Fund and used to support affordable housing in the City of Cupertino; and

WHEREAS, to ensure that the housing mitigation fees recommended by this resolution do not exceed the actual affordable housing impacts attributable to the development projects on which the fee is imposed, the City Council has considered reports from Keyser-Marston Associates, Inc. (KMA) dated March 2015 and entitled "Summary and Recommendations: Below Market Rate (BMR) Housing Mitigation Program;" and "Non-Residential Jobs-Housing Nexus Analysis;" (collectively, the "KMA Reports"); and

WHEREAS, the KMA Reports use widely used, appropriate methodology to determine the maximum amount needed to fully mitigate the burdens created by residential and non-residential development and demonstrate that there is a reasonable relationship between the need for affordable housing and the impacts of the development described in the KMA Reports 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; and

WHEREAS, to ensure that development projects remain economically feasible, the recommended housing mitigation fees as shown in the attached Exhibit A are significantly lower than the maximum amount needed to fully mitigate the burdens created by new development on the need for affordable housing as determined in the KMA Reports ; and

WHEREAS, on May 19, 2020, the City Council considered the July 2019 Economic Feasibility Analysis prepared by Strategic Economics and supplemental analyses prepared by Strategic Economics, LeSar and Associates, and KMA, and considered a recommendation from the Housing Commission with support from the Planning Commission to increase the housing mitigation fees for hotels, offices, research and development, and industrial uses; and

WHEREAS, the Economic Feasibility Analysis determined that increasing the housing mitigation fees as recommended would be feasible; 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, in accordance 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, in accordance 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 as required by Government Code Section 66018; and

WHEREAS, a duly and properly noticed public hearing was conducted by the City Council on May 19, 2020.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby

1. Finds that the foregoing recitals are true and correct; and
2. Adopts the proposed housing mitigation fees for hotels, and for offices, research and development and industrial uses, as shown in Exhibit A hereto.

BE IT FURTHER RESOLVED that this Resolution shall go into full force and effect on July 18, 2020.

BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it is a governmental funding mechanism which does not involve any commitment to any specific project (CEQA Guidelines section 15378(b)(4)) and 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 amendments to the housing mitigation fees, without any commitment to a specific project, 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.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 19th day of May, 2020, 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 |

EXHIBIT A
PROPOSED AMENDMENTS TO THE
HOUSING MITIGATION FEE SCHEDULE

| Non-Residential Housing Mitigation Fees | |
|--|------------------|
| Office/Research & Development(R&D)/ Industrial | *\$30.00/sq. ft. |
| Hotel | *\$15.00/sq. ft. |

* Fee amounts shall be adjusted annually by the community development director based on the percentage increase in the Consumer Price Index for All Urban Consumers for San Francisco, California