

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE PROVIDING REDUCTIONS IN THE PARKLAND IN-LIEU FEES APPLICABLE TO PROJECTS LOCATED IN THE DOWNTOWN PLANNED GROWTH AREA AS DESCRIBED IN THE ENVISION SAN JOSE 2040 GENERAL PLAN THAT ARE TEN (10) OR MORE FLOORS OR STORIES IN HEIGHT (NOT INCLUDING ANY NONRESIDENTIAL USES) WHERE THE HIGHEST OCCUPIED FLOOR HAS A FLOOR LEVEL ELEVATION THAT IS AT LEAST 150 FEET ABOVE STREET LEVEL, AND REDUCING THE APPLICABLE IN-LIEU FEES FOR THOSE PROJECTS UNDER THE PARKLAND IN-LIEU FEE ORDINANCE BY: (A) FIFTY PERCENT (50%) FOR UP TO 1,000 UNITS THAT OBTAIN A BUILDING PERMIT BY DECEMBER 31, 2025, AND PASS FIRST INSPECTION WITHIN 12 MONTHS OF OBTAINING THE BUILDING PERMIT; AND (B) THIRTY PERCENT (30%) FOR UP TO 3,078 UNITS THAT OBTAIN A BUILDING PERMIT BETWEEN JANUARY 1, 2026 AND DECEMBER 31, 2026

WHEREAS, the City of San José (“City”) enacted the Parkland Dedication Ordinance, San José Municipal Code (“SJMC”) Chapter 19.38 (“PDO”) in 1988 and the Park Impact Ordinance, SJMC Chapter 14.25 (“PIO”) in 1992 to meet the demand for new neighborhood and community parkland generated by development of new residential subdivisions and new non-subdivided residential projects, both of which have been amended since that time; and

WHEREAS, SJMC Sections 14.25.060 and 19.38.060 authorize the City Council to establish the Park Impact Fee and Parkland Fee (collectively the “Parkland In-Lieu Fees”); and

WHEREAS, on October 26, 2023, the City Council held a study session and received the latest report on the Cost of Residential Development (“Report”), which concluded

that current economic conditions remain a significant barrier to the construction of new market rate and affordable housing within Downtown and citywide; and

WHEREAS, a Memorandum from the Departments of Planning, Building, and Code Enforcement; the Office of Economic Development and Cultural Affairs; Housing; Parks, Recreation, and Neighborhood Services; and Transportation, dated May 28, 2024 (“Memorandum”) includes information on a two-phased program to support the production of high-rise residential development in the City’s Downtown Planned Growth Area; and

WHEREAS, SJMC Chapter 14.10 sets “Minimum Labor Standards for a Private Construction Project Accepting a City Subsidy”, defining a subsidy to include any “reduction, permanent suspension or exemption of any fee or tax” that applies to single or multiple projects; and

WHEREAS, construction projects receiving a City subsidy are required to pay all workers employed on the construction prevailing wage rates, and are subject to other provisions such as apprenticeships and local hire, among others; and

WHEREAS, there are exemptions to the definition of a subsidy that include the reduction of a fee or tax that is applied uniformly across all private construction projects within a specific subcategory of use, e.g., high-rise residential, when City Council determines, based on specified criteria, that construction of the projects is not financially feasible; and

WHEREAS, the City recognizes the importance of supporting High Rise Residential Development to complement job growth, catalyze transit usage, and create a strong residential base to support the continued development of a vibrant city center; and

WHEREAS, based on the results of the analysis in the Report regarding the lack of financial feasibility, staff recommends providing a 50% reduction in the Parkland In-Lieu Fees for up to 1,000 units in qualified residential high-rise projects located within the Downtown Planned Growth Area as described in the Envision San José 2040 General Plan that are 10 or more floors or stories in height (not including any nonresidential uses) where the highest occupied floor has a floor level elevation that is at least 150 feet above street level that obtain building permits by December 31, 2025, and pass first inspection within 12 months of obtaining a building permit, and providing a 30% reduction in the Parkland In-Lieu Fee for up to 3,078 units in qualified residential high-rise projects that obtain building permits between January 1, 2026, and December 31, 2026; and

WHEREAS, the reductions of the Parkland In-Lieu Fees are made based on the findings of the Memorandum, the Report, and the documents linked to the Memorandum;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

- A. The above recitals are true and correct.
- B. The City Council hereby authorizes a 50% reduction in the Parkland In-Lieu Fees for up to 1,000 units in qualified residential high-rise projects located within the Downtown Planned Growth Area as described in the Envision San José 2040 General Plan that are 10 or more floors or stories in height (not including any nonresidential uses) where the highest occupied floor has a floor level elevation that is at least 150 feet above street level that obtain building permits by December 31, 2025, and pass first inspection within 12 months of obtaining a building permit, and providing a 30% reduction in the Parkland In-

Lieu Fee for up to 3,078 units in qualified residential high-rise projects that obtain building permits between January 1, 2026, and December 31, 2026. Payment of any applicable Parkland In-Lieu Fees will be due at the sooner of City's issuance or Certificate of Occupancy or five years from the date that the City issues the first building permit for the project.

ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk