

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING AN EXTENSION OF THE DOWNTOWN RESIDENTIAL HIGH-RISE PROGRAM 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 IN-LIEU FEES DUE FOR THOSE PROJECTS UNDER THE INCLUSIONARY HOUSING ORDINANCE TO THE AMOUNT OF \$0 FOR UP TO 4,078 UNITS THAT OBTAIN A BUILDING PERMIT BY DECEMBER 31, 2026, AND PASS FIRST INSPECTION WITHIN 12 MONTHS OF OBTAINING THE BUILDING PERMIT**

**WHEREAS**, Section 5.08.520 of the Inclusionary Housing Ordinance, Chapter 5.08 of Title 5 of the San José Municipal Code, authorizes the City of San José (“City”) Council to adopt a resolution reducing the in lieu fees for high-rise residential developments of ten (10) or more floors or stories in height not including any non-residential uses where the highest occupied floor has a floor level elevation is at least one hundred fifty (150) feet above street level (“High Rise Residential Development”) in a specified geographic area; 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 rates and affordable housing within Downtown and citywide; and

**WHEREAS**, a Memorandum from the Departments of Planning, Building, and Code Enforcement; 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**, Chapter 14.10 of the San José Municipal Code 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 requiring 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 foster vibrant retail environments; and

**WHEREAS**, the City expressed the need to explore mechanisms to support housing production outside of the Downtown core, while still maintaining a focus on incentivizing high rise development in the City center; and

**WHEREAS**, based on the results of the analysis in the Report regarding the lack of financial feasibility, staff recommends an extension of the current reduction to allow payment of \$0 in lieu fee to qualifying High Rise Residential Developments located in the Downtown Planned

Growth Area that receive building permits by December 31, 2026 and pass first inspection within 12 months of obtaining the building permit; and

**WHEREAS**, the reductions of the in lieu fee 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 an extension to the Downtown Residential High-Rise Program applicable to projects located in 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, and reducing the in-lieu fees due for those projects under the Inclusionary Housing Ordinance to the amount of \$0 for up to 4,078 units that obtain a building permit by December 31, 2026, and pass first inspection within 12 months of obtaining the building permit.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk