

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A TEMPORARY CAP ON (i) ANY FUTURE NEW FEES ON NEW DEVELOPMENT CITYWIDE FOR PUBLIC INFRASTRUCTURE (EXCLUDING AFFORDABLE HOUSING); AND (ii) FUTURE INCREASES TO THE EXISTING DIRIDON BASIC INFRASTRUCTURE IMPACT FEE**

**WHEREAS**, on March 10, 2020, the City Council of the City of San José (“City”) ratified the Director of Emergency Service’s Proclamation of Local Emergency due to the outbreak of a novel coronavirus in the City; and

**WHEREAS**, prior to the public health emergency and related shelter in place orders, the Silicon Valley economic statistics reported record low unemployment of approximately 2.6% and economic expansion had been taking place locally and across the state and country for over nine years; and

**WHEREAS**, a slowing economy was anticipated by economists, but the public health emergency accelerated the economic downturn and California is now experiencing job losses at historic rates; and

**WHEREAS**, providing certainty about development fee levels for the next 2.5 years helps developers and lenders of entitled projects to know project costs, finalize financing, and obtain building permits to commence construction in the City; and

**WHEREAS**, driving major construction projects during the public health emergency and recession will create jobs and tax revenue and improve the public health and welfare; and

**WHEREAS**, there have been prior and on-going City efforts related to funding affordable housing to address the housing crisis and public infrastructure to support new development; and

**WHEREAS**, in 2019, the City Council adopted Ordinance Number 30305 establishing the Diridon Basic Infrastructure Impact Fee (“Diridon Impact Fees”) to support the buildout of the Diridon Station Area Plan; and

**WHEREAS**, the Diridon Impact Fees provide funding for a base level of public infrastructure (i.e., streets, plaza/open space, sanitary sewer, and storm drainage) for the Diridon Station Area Plan; and

**WHEREAS**, the current Diridon Impact Fee rates are as follows:

- Retail: \$4.08 per square foot
- Office: \$6.10 per square foot
- Hotel: \$2,931 per hotel room
- Residential: \$2,735 per unit; and

**WHEREAS**, the City is in the process of amending the Diridon Station Area Plan to add development capacity and updating the Diridon Impact Fees to provide additional funding for public infrastructure; and

**WHEREAS**, in order to assist in the economic recovery and provide certainty for developers to obtain financing for projects and building permits to commence construction on new development, the City Council intends by this Resolution to

temporarily cap future increases to the Diridon Impact Fees for building permits issued for vertical construction before January 1, 2023; and

**WHEREAS**, the City is also working on other funding mechanisms for public infrastructure Citywide to support new development; and

**WHEREAS**, the City Council intends by this Resolution to also temporarily cap any future new fees on new development citywide for public infrastructure (excluding affordable housing) for building permits issued for vertical construction before January 1, 2023; and

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this action do not constitute a project, under File No. PP17-005 (CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates and Fares without changes to or expansion of services); and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this action; and

**WHEREAS**, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions;

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

1. There is a temporary cap (until January 1, 2023) on (i) any future new fees on new development citywide for public infrastructure (excluding affordable housing); and (ii) future increases to the existing Diridon Basic Infrastructure Impact Fee as follows:
  - a. Retail/Industrial: \$8.16 per square foot
  - b. Office/R&D: \$12.20 per square foot
  - c. Hotel: \$5,962.00 per room
  - d. Residential: \$5,470.00 per unit
  
2. The temporary fee cap set forth above provides the maximum rates that may be charged and collected for the applicable fees subject to this Resolution. Payments are due prior to building permit issuance for vertical construction (excluding grading and foundation permits) based on the rates in effect at the time of building permit issuance, unless a different rate or timing for payment are approved by City Council.
  
3. This Resolution does not apply to (i) any funding mechanisms related to the development of affordable housing; and (ii) existing fee programs (except for the Diridon Basic Infrastructure Impact Fees), such as North San José Area Development Policy, US-101/Oakland/Mabury Area Transportation Development Policy, Edenvale Area Development Policy, Interstate 280/Winchester Boulevard Transportation Development Policy, Evergreen-East Hills Development Policy, Parks Impact Fees, Sanitary Sewer and Sewage Treatment Plant Connection Fees, Storm Drainage Fees, Utility Undergrounding Fees, and other similar existing fees for public infrastructure.

4. This Resolution shall automatically expire on January 1, 2023 unless amended or repealed by City Council prior to the automatic expiration date.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

SAM LICCARDO  
Mayor

ATTEST:

---

TONI J. TABER, CMC  
City Clerk