

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DECLARING A SHELTER CRISIS PURSUANT TO, AND IN ACCORDANCE WITH, THE PROVISIONS OF CALIFORNIA GOVERNMENT CODE SECTION 8698 ET SEQ., AND FURTHER PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY CAUSED BY CONDITIONS BOTH EXISTING AND THREATENED OF HOMELESSNESS WITHIN THE CITY OF SAN JOSE, WHICH IF NOT CORRECTED, CONSTITUTES AN IMMEDIATE AND PROXIMATE THREAT TO THE SAFETY OF PERSONS AND PROPERTY IN THE CITY

WHEREAS, on December 8, 2015, the Council of the City of San José (“City”) first declared a shelter crisis under California Government Code Section 8698 *et seq.*, and in the following years, the City Council has declared a continued shelter crisis with the last one proclaimed on November 8, 2022; and

WHEREAS, pursuant to the provisions of California Government Code Section 8698 *et seq.*, including but not limited to sections 8698.1, 8698.2, 8698.3, and 8698.4, the City may declare a shelter crisis, which is deemed to constitute a local emergency; and

WHEREAS, to declare a shelter crisis, the City must find that there is an existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety; and

WHEREAS, pursuant to the Shelter Crisis Act codified in California Government Code section 8698 *et seq.*, upon declaration of a shelter crisis, the provisions of state or local regulatory statutes, regulations, and ordinances prescribing standards of housing, health, or safety are deemed suspended and inapplicable to the extent that strict compliance with

such regulations or ordinances would in any way prevent, hinder, or delay the mitigation effects of the shelter crisis; and

WHEREAS, according to the published Executive Summary of the 2023 Point in Time Homeless Census, a total of 6,266 people experiencing homelessness were counted in San José, 4,411 of which were unsheltered; and

WHEREAS, homelessness disproportionately impacts the City's Black and Hispanic/Latinx residents. Per U.S. Census data, Hispanic/Latinx people comprise only 31 percent of the population of the City but, in the most recent homelessness count, accounted for 50 percent or more of people experiencing homelessness, and Black residents, though constituting only 3 percent of the City's population, make up 16 percent of the homeless population. Together Black and Hispanic/Latinx individuals make up approximately 66 percent of the City's total homeless population; and

WHEREAS, homelessness further disproportionality affects our most vulnerable populations. According to data from the 2023 Homeless Census, 20 percent of responding individuals reported having a physical disability, 26 percent reported having chronic health issues, 35 percent reported having psychiatric or emotional conditions, and 29 percent report their cause of homelessness to be lost job or eviction; and

WHEREAS, a limited access to health care services and poor living conditions exacerbated by a lack of available shelter further compounds this risk, and as a result, the experience of homelessness may place individuals at greater risk of exposure to a variety of infectious diseases, including COVID-19 and other health problems associated with acute and chronic homelessness, such as depression and other psychiatric or mental health issues, post-traumatic stress disorder, drug or alcohol dependency, and cardiovascular issues; and

WHEREAS, according to the Santa Clara County Medical Examiner, in 2022, 356 people experiencing homelessness died on the streets in Santa Clara County. Among those who died, 146 were seniors. More than half were people of color. Three babies and seven teenagers and young adults between ages 16 and 25 also died on the streets that year. Causes of death range from suicide, weather exposure, drug and alcohol overdose, and vehicular or pedestrian accidents; and

WHEREAS, the displacement of the number of people living on the streets of the City today is a daily recurring emergency, empowering the City Council to declare a state of local emergency under California Government Code sections 8558 and 8630, no less than if the emergency was caused by an earthquake, fire, or flood; and

WHEREAS, the homelessness crisis has strained the City's public safety resources. In the past year, the San José Fire Department ("SJFD") responded to 10,580 calls for service related to the unhoused, of which 6,261 were medically related and 2,075 were fire related. From 2016 to the current fiscal year (FY23-24) SJFD responded to a total of 56,313 service calls involving the unhoused; and

WHEREAS, the location of homeless encampments and the occurrences of fires present a risk to health and safety to the unhoused and to the wider community.¹ In San José, illegal encampments are commonly located adjacent to structures or communities that pose an existing fire risk, including but not limited to residential neighborhoods and mobile home communities; and

¹ See, e.g., "Homeless encampment fires plague residents of San Francisco Tenderloin District building", <https://www.cbsnews.com/sanfrancisco/news/homeless-encampment-fires-plague-residents-of-san-francisco-tenderloin-district-building/>; "People are really scared.' Why fires at the Bay Area's largest homeless encampment are so tough to fight", <https://www.sfchronicle.com/eastbay/article/People-are-really-scared-Why-fires-at-the-17395847.php>; "Harbor Gateway homeless encampment sees 20 fires in 5 days, homeless advocates say", <https://www.foxla.com/news/harbor-gateway-homeless-encampment-sees-20-fires-in-5-days-homeless-advocates-say>.

WHEREAS, the unhoused have higher rates of justice involvement than the general public. A University of California San Francisco Benioff study found that nearly one third of people experiencing homelessness reported a jail stay during their episode of homelessness. Furthermore, experiencing homelessness leaves individuals more vulnerable to violence and sexual assault. A survey of homeless individuals in San Francisco reflected that 32.3 percent of women, 27.1 percent of men, and 38.1 percent of transgendered persons reported experiencing either sexual or physical assault in the previous year, rates significantly higher than those seen among the general population; and

WHEREAS, the unhoused are disproportionately impacted by severe weather events, including but not limited to hospitalizations and death from heat, cold, and flooding.² These severe weather events also put a strain on City resources as the City must respond to associated service calls, including but not limited to, rescues of unhoused individuals residing in creek or riverside encampments during periods of excess rain and flooding. With extreme weather events becoming more common as a result of climate change these events will increasingly impact our vulnerable unhoused population and place even greater strain on the City's services and limited resources; and

WHEREAS, many of the illegal encampments in the City are adjacent to Federally-protected waters, including creeks and rivers. Refuse, debris, and pollution originate from these illegal encampments and unlawfully spill into our waterways and trigger the City's obligations under its Regional Municipal Stormwater Permit. Moreover, this discharge from illegal encampments constitutes a threat to public health and the environment, harming the delicate ecosystem of our local waterways; and

² See, e.g., Memorandum 23-026, Ratification of Proclamation of Local Emergency dated January 6, 2023, wherein Council ratified a declaration of local emergency due to flooding and high winds reflecting the need to protect the lives of unhoused residents by evacuating those living in and near creeks. <https://sanjose.legistar.com/View.ashx?M=F&ID=11560656&GUID=639FC7E6-4094-4FD2-BC45-FE2FB3634CDB>

WHEREAS, the City of San José housing department has identified approximately 2000 year-round emergency shelter beds in Santa Clara County, of which 1,582 are in San José. It is anticipated that the 2023 Continuum of Care Housing Inventory Count will show a 21 percent increase in the number of available beds in San José built under the Shelter Crisis Act, representing a measure of progress, but which remains insufficient to meet the needs of our unhoused population; and

WHEREAS, the City now desires to declare the continued existence of a shelter crisis in San José pursuant to and in accordance with the provisions of California Government Code section 8698 *et seq.*, and to declare a local emergency due to the conditions, existing or threatened, of homelessness in San José pursuant to and in accordance with the provisions of California Government Code sections 8558 and 8630 and applicable State laws, the San José City Charter, and the San José Municipal Code;

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

1. The City Council has reviewed and considered the entirety of the administrative record, including but not limited to, the Recitals set forth in this Resolution, City staff memorandum to the City Council, public testimony, and any and all information and documents provided to the City Council and public related to the adoption of this Resolution.
2. The City Council declares based on substantial evidence the continued existence of a continuing shelter crisis in San José under California Government Code section 8989 *et seq.*, such that the number of unsheltered and unhoused individuals currently outnumbers the amount of available shelter beds such that a

large number of individuals are unable to find shelter constituting a threat to their health and safety.

3. Pursuant to California Government Code section 8630 and other applicable State law, the City Council hereby finds and proclaims the existence of a local emergency caused by conditions or threatened conditions of homelessness in San José, which, if not corrected, constitutes a threat to the safety of persons and property within the territorial limits of the City beyond the control of the services, personnel equipment, and facilities of the City.
4. It is determined that strict compliance with otherwise applicable state or local statutes, regulations and ordinances would prevent, hinder, or delay the mitigation of the effects of the shelter crisis.
5. The City of San José requests the federal government, Governor and State Legislature to declare an emergency to combat homelessness and direct resources to support the efforts of major cities in the State of California to address the emergency.
6. The City further requests the County of Santa Clara, regional agencies, and other public agencies to declare an emergency on homelessness and to coordinate efforts and partner to address this proclaimed emergency with other local jurisdictions, the County of Santa Clara, the State of California, and the federal government.
7. Staff is directed to prioritize the following efforts to address the homelessness crisis in San José:

- The development of homeless shelters, emergency bridge housing, and emergency interim housing; and
 - Study efforts undertaken by other jurisdictions to combat the problem of homelessness, including but not limited to, the development of additional types of homeless shelter facilities; and
 - Identify specific and necessary resources and support that the City should request and opportunities for partnerships with the County, the State of California, and the Federal government to address this crisis;
 - To better utilize the City's resources, and to further leverage County, State, and Federal resources, to reduce the number of new individuals or households entering homeless in the City, and to address racial inequity and reverse the disproportionately high rates of people of color who are unhoused in the City; Additional means by which the City can leverage partnerships, including but not limited to, public and private partnerships, public-public partnerships and Joint Powers Agreements, and partnerships with local Universities and research institutions to better address the homelessness crisis; and
 - Making additional efforts to secure regulatory relief from federal, state, and other jurisdictions and within City departments to create flexibility to address the homeless crisis; and
 - Identify ways the City can streamline and remove obstacles which may limit the ability of the City's departments to quickly address the crisis, including but not limited to ways the City can further streamline the creation of housing, more effectively and efficiently use funds, expand access to services, and expedite the procurement and contracting processes for materials, equipment, and services necessary to respond rapidly to the homelessness crisis.
8. The continuing proclamation of an emergency on homelessness shall be regularly evaluated by the City Council, by reference to key performance indicators of progress in addressing the emergency, including, but not limited to:

- A decrease in the number of unsheltered homeless in the City;
 - Decrease in number and size of encampments;
 - Increase in the number of shelter beds and other new safe opportunities (permanent housing, rapid rehousing, rental assistance, emergency interim housing, safe parking capacity, *etc.*);
 - Increase in households receiving prevention services who retain housing after one year;
 - Increase in number of households who remain housed one year after being housed in permanent housing; and
 - Increase in regional partnerships to address the homelessness crisis.
9. If any provision of this resolution, or if any application thereof to any actions or circumstance is held to be unenforceable, the remainder of this resolution and the application of its provisions to other actions and circumstances shall not be affected thereby.
10. This Shelter Crisis Declaration adopted under California Government Code section 8698 *et seq.* shall be deemed to continue until terminated by the City Council.
11. This Proclamation of Emergency adopted under California Government Code section 8630 and other applicable State laws shall sunset in One Hundred Eighty (180) days from the date of adoption, subject to being renewed or earlier termination by the City Council. The setting of a specific time frame allows for actions to be taken to make permanent, necessary structural changes, as explained in detail in this Resolution.

ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk