

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING EXHIBIT A OF RESOLUTION NO. 78733, ADOPTED ON AUGUST 7, 2018, WHICH SETS FORTH THE SCHEDULE OF PARKLAND FEES CHARGED PURSUANT TO CHAPTERS 14.25 AND 19.38 OF THE SAN JOSE MUNICIPAL CODE, TO ESTABLISH A NEW PERMANENT PER UNIT PARKLAND IN-LIEU FEE FOR MULTI-FAMILY RESIDENTIAL PROJECTS THAT HAVE FIVE UNITS (OR MORE) IN MULTIPLE LISTING SERVICE DISTRICT 7B (NORTH SAN JOSE – SOUTH OF STATE ROUTE 237) AT \$22,600 PER UNIT

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 August 7, 2018, the City Council adopted Resolution No. 78733 which permanently aligned the eligibility requirements for Single Resident Occupancy and Secondary Residential Units in the Schedule of Parkland Fees with the corresponding descriptions and requirements in Title 20 of the SJMC, as it may be amended from time to time, to ensure consistency between the SJMC and the Schedule of Parkland Fees regarding the maximum unit square footage and other zoning requirements for these specific unit types; and

WHEREAS, on January 14, 2020, the City Council adopted Resolution No. 79369 which set forth the Schedule of Parkland Fees charged pursuant to Chapters 14.25 and 19.38 of the SJMC; to reduce fees to \$0 for property owners who participate in the ADU Amnesty Program and who qualify for a financial hardship exemption under the criteria set forth in SJMC Sections 4.76.400 through 4.76.470; and

WHEREAS, on March 2, 2021, the City Council adopted Resolution No. 79913 which amended Resolution No. 78474, the Schedule of Parkland Fees, temporarily establishing that the parkland fees charged pursuant to Chapters 14.25 and 19.38 of the SJMC be set at 50% of the applicable parkland fees for deed restricted moderate-income residential units that are provided to satisfy Inclusionary Housing ordinance provisions under SJMC Chapter 5.08 until January 1, 2026; 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, following the Report, Century Urban, the City’s Consultant, provided an updated high-level feasibility analysis, noting that there has been no material improvement in key drivers of economic feasibility since publishing the Report and therefore no indication or evidence that the challenging residential development economics observed in the 2023 analysis have improved; 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 multifamily residential development to complement job growth, catalyze transit usage, and foster vibrant retail environments; and

WHEREAS, based on the Report and subsequent analysis conducted by the Consultant, the City has determined that the fee reduction permitted under the Parkland In-Lieu Fees is not a subsidy; and

WHEREAS, based on the results of the analysis in the Report and the updated analysis regarding the lack of financial feasibility, Council desires to establish a new permanent per unit Parkland In-Lieu Fee for multi-family residential projects that have five units (or more) in Multiple Listing District 7B (North San José – south of State Route 237) at \$22,600 per unit; 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 a new permanent per unit Parkland In-Lieu Fee for multi-family residential projects that have five units (or more) in Multiple Listing Service District 7B (North San José – south of State Route 237) at \$22,600 per unit.

- C. This Resolution is effective on the same day it is adopted by City Council. The provisions of Resolution No. 78733 that have not been amended by this Resolution shall remain in full force and effect. Any projects that have five units (or more) in Multiple Listing Service District 7B (North San José – south of State Route 237) who have not obtained building permits before adoption of this Resolution are eligible for the new permanent per unit Parkland In-Lieu Fee rate at \$22,600 per unit.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk