

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE TEMPORARY DEFERRAL OF THE DIRIDON STATION AREA BASIC INFRASTRUCTURE IMPACT FEE FROM BUILDING PERMIT TO OCCUPANCY, AND AUTHORIZING THE CITY MANAGER OR HER DESIGNEE TO NEGOTIATE AND EXECUTE PROJECT COMPLETION AGREEMENTS AND TO REQUIRE SECURITY PAYMENTS AS NEEDED, FOR ANY NON-RESIDENTIAL DEVELOPMENT OBTAINING A BUILDING PERMIT FOR VERTICAL CONSTRUCTION BY DECEMBER 31, 2028, PURSUANT TO SAN JOSE MUNICIPAL CODE SECTION 14.35.040A

WHEREAS, on August 20, 2019, the City Council of the City of San José (“City”) approved Ordinance No. 30305 (“Ordinance”), establishing the Diridon Station Area Basic Infrastructure Impact Fee (“Impact Fee”) to fund essential public improvements in transportation, stormwater, and public space categories in the Diridon Station Area, which was envisioned as a mixed-use employment hub that would anchor regional transit investments and extend downtown’s urban fabric westward; and

WHEREAS, the Diridon Station Area market has since undergone considerable transition, as remote and hybrid work patterns have reshaped the office market across Silicon Valley, leading to persistently high vacancy rates and a sharp contraction in speculative office construction, construction costs have risen by more than 25 percent since 2020, and lenders now require stronger pre-leasing and equity positions before committing to new projects; and

WHEREAS, California Senate Bill 937 (“SB 937”) allows local agencies to defer impact fees under the State’s Mitigation Fee Act until final inspection or occupancy for certain “designated residential development projects”; and

WHEREAS, the Ordinance currently requires payment of the Impact Fee prior to building permit issuance, which was intended to secure infrastructure funding early in the development process, consistent with the City's Mitigation Fee Act obligations; however, this structure also creates significant capital timing challenges for large-scale commercial projects, which must front-load fees before construction financing can be fully stabilized; and

WHEREAS, while SB 937 only applies to residential projects, extending similar flexibility to non-residential projects will provide near-term relief to maintain project viability during a period of weakened demand in the office and non-residential market and constrained construction financing, while ensuring the City ultimately receives the full fee amount prior to building occupancy; and

WHEREAS, allowing payment at final inspection or occupancy would enable these projects to remain active, pull permits, and continue limited work while pursuing tenants and final financing, thereby maintaining construction momentum and preserving the City's broader vision for the Diridon Station Area; and

WHEREAS, in order to support the continued revitalization of the Diridon Station Area by enabling entitled projects to proceed with critical construction activity without triggering substantial upfront costs that could otherwise stall or permanently halt progress, the City desires to temporarily defer the Impact Fee from building permit to occupancy for any non-residential development obtaining a building permit for vertical construction by December 31, 2028; and

WHEREAS, the City also desires to authorize the City Manager or her designee to negotiate and execute project completion agreements, and to require security payments as needed, to ensure that the City retains a binding commitment for full payment before any final inspection or occupancy (whichever occurs first);

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

Pursuant to San José Municipal Code Section 14.35.040A, the City Council hereby authorizes:

- A. The temporary deferral of the Diridon Station Area Basic Infrastructure Impact Fee from building permit to occupancy for any non-residential development obtaining a building permit for vertical construction by December 31, 2028; and
- B. The City Manager or her designee to negotiate and execute project completion agreements, and to require security payments as needed, to temporarily defer payment of the Diridon Station Area Basic Infrastructure Impact Fee for any non-residential development obtaining a building permit for vertical construction by December 31, 2028.

ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk