

**Before the Board of Supervisors of the County of Fresno, State of California**

**Ordinance No. \_\_\_\_\_**

**An Ordinance of the County of Fresno Amending Chapter 17.90 of Title 17 of the Ordinance Code of Fresno County, Titled “Divisions of Land,” Relating to Authorizing Public Facilities Impact Fees and a Schedule of Fees**

WHEREAS, on July 22, 2008, the Board of Supervisors (“Board”) of the County of Fresno (“County”), after having duly caused all necessary studies and impact fee reports to be undertaken or provided (which, along with their supporting data, were timely made available to the public for inspection prior to the following Board actions), duly given all advance publications and any other public notices, and duly conducted all public meetings and hearings, required by law with respect to the Board’s proposed adoption of the herein-referenced ordinance code at which extensive public testimony, comments, and input were given, and oral or written information were duly considered by the Board, the Board duly ordained, adopted, enacted and approved Chapter 17.90, which was thereby added to Title 17, entitled “Divisions of Land,” of the Ordinance Code of Fresno County to read as follows: “Chapter 17.90, ‘Public Facilities Impact Fees & Schedule of fees’” (“Chapter 17.90”), Fresno County Ordinance No. 08-023, all as provided and required by all applicable laws;

WHEREAS, Chapter 17.90 provides, among other things, for the County’s adoption and imposition of public facilities impact fees, pursuant to Title 7, Division 1, Chapters 5 through 9 (commencing with section 66000) of the California Government Code, entitled the Mitigation Fee Act, which are needed to mitigate adverse impacts caused by new development within the cities and in the unincorporated areas of Fresno County upon County public facilities;

WHEREAS, Chapter 17.90 also provides, among other things, for cities to collect the County’s public facilities impact fees for and on behalf of the County within such cities;

WHEREAS, following the Board’s adoption of Chapter 17.90, the Board has adopted five amendments to Chapter 17.90, three of which included provisions that, in light of businesses and individuals having experienced extraordinary and unforeseen adverse financial conditions that have substantially impacted the economy in the State of California and in Fresno County, there will be a two-year temporary suspension (during the period commencing upon November 10, 2010, and continuing until November 9, 2012), followed by a successive three-year temporary suspension (during the period commencing on November 10, 2012, and continuing until November 9, 2015), followed by a successive two-year temporary suspension (during the period commencing on November 10, 2015, and continuing until November 9, 2017) of the County’s requirement for building permit applicants to pay the County’s public facilities impact fees for construction that is subject to Chapter 17.90, of the County’s and cities’ collection of such fees during those periods, and of any requirement in Chapter 17.90 for the County to consider and take any possible action any annual update of any such fees under the schedule(s)

of fees, without in any other way whatsoever otherwise affecting Chapter 17.90, or the authority for any action taken or to be taken thereunder, including, but not limited to, the County's expenditure or other use of any public facilities impact fees that have been required to be paid and collected pursuant to Chapter 17.90;

WHEREAS, business and individuals have continued to experience extraordinary and unforeseen adverse financial conditions that have substantially affected the economy in the State of California and in Fresno County;

WHEREAS, the Board expects such economic conditions to continue to affect the amount of new development within Fresno County and to cause such new development to occur at a diminished rate for the period for which the amendment to Chapter 17.90, below, will be in effect;

WHEREAS, the Board determines that the provisions of this amendment to Chapter 17.90 will have a positive impact on the economy of Fresno County, including new development within Fresno County;

WHEREAS, the Board desires to further amend Chapter 17.90, accordingly, by continuing the temporary suspension for an additional approximately one-year period (during the period beginning on November 10, 2017, and continuing until November 10, 2018), as provided below, of the County's requirement for building permit applicants to pay the County's public facilities impact fees for construction that is subject to Chapter 17.90, of the County's and cities' collection of such fees during that period, and of any requirement in Chapter 17.90 for the County to consider and take any possible action on any annual update of any such fees under the schedule(s) of fees, without in any other way whatsoever otherwise affecting Chapter 17.90, or the authority for any action taken or to be taken under it, including but not limited to the County's expenditure or other use of any public facilities impact fees that have been required to be paid and collected pursuant to Chapter 17.90;

WHEREAS, the Board also desires to further amend Chapter 17.90, accordingly, by extending to April 15, 2019, the commencement of the first five-year interval requiring the County, under Chapter 17.90, to conduct or obtain an updated fee study, as provided below, for updated public facilities impact fees;

WHEREAS, all such amendments to Chapter 17.90, provided in this ordinance, are referred to below as the "Sixth Ordinance Amendment";

WHEREAS, the Board has determined that this Sixth Ordinance Amendment does not adversely impact the County's authority or ability to establish, impose, and collect public facilities impact fees pursuant to the provisions of Chapter 17.90;

WHEREAS, the Board has determined that this Sixth Ordinance Amendment is for the good of the public interest;

WHEREAS, the Board may amend Chapter 17.90 from time to time, which includes this Sixth Ordinance Amendment;

WHEREAS, as provided in Section 17.90.110, the provisions of Chapter 17.90 and any subsequent amendments to Chapter 17.90 shall be read together;

WHEREAS, all terms of this Sixth Ordinance Amendment have the meaning given to them in Chapter 17.90, unless otherwise defined in this Sixth Ordinance Amendment; and

WHEREAS, after having duly given all advance publications and any other public notices, and duly conducted all public meetings and hearings, required by law with respect to the Board's proposed adoption of this Sixth Ordinance Amendment, at which public testimony, comments, and input were given, and oral and (if any) written information were duly considered by the Board, the Board takes the following actions.

Now therefore, the Board of Supervisors of the County of Fresno ordains as follows:

### **Section 1. Amendment**

Section 17.90.040, subdivision B, of Chapter 17.90 of the Ordinance Code of Fresno County is hereby amended to read in its entirety as follows:

“B. Notwithstanding anything to the contrary in subdivision A. of this section, and in sections 17.90.060 and 17.90.070, herein, (i) an applicant for a building permit for construction within any of the cities or any of the unincorporated areas of Fresno county shall not be required to pay any of the fees in this chapter for any such building permit issued by any of the cities or the county, respectively, during the period commencing upon November 10, 2010, and continuing at all times thereafter until November 9, 2012 (the “First Temporary Suspension of Fee Collection”), or during the period commencing upon November 10, 2012, and continuing at all times thereafter until November 9, 2015 (the “Second Temporary Suspension of Fee Collection”), or during the period commencing upon November 10, 2015, and continuing at all times thereafter until November 9, 2017 (the “Third Temporary Suspension of Fee Collection”), or during the period commencing upon November 10, 2017, and continuing at all times thereafter until November 10, 2018 (the “Fourth Temporary Suspension of Fee Collection”) (collectively, the First Temporary Suspension of Fee Collection, the Second Temporary Suspension of Fee Collection, the Third Temporary Suspension of Fee Collection, and the Fourth Temporary Suspension of Fee Collection are the “Temporary Suspension of Fee Collection”), and (ii) neither any city, nor the county shall be required to collect any of the fees in this chapter for any such building permit issued by any such city or the county,

respectively, during the temporary suspension of fee collection. The foregoing provisions of this subdivision B. shall not in any way whatsoever otherwise affect Chapter 17.90, or the authority for any action taken or to be taken thereunder, including, but not limited to, the county's expenditure or other use at any time of any fees that have been required to be paid and collected pursuant to this chapter. The temporary suspension of fee collection shall automatically terminate upon the last date thereof without the necessity of any action by the county, including, but not limited to, the board or the department."

Section 17.90.060, subdivision D.3., of Chapter 17.90 of the Ordinance Code of Fresno County is hereby amended to read in its entirety as follows:

"3. Notwithstanding anything to the contrary in subdivision D.1. of this section, from time to time, after conducting or obtaining an appropriate further study (e.g., a new impact fee report, which may be prepared by the county or a consultant engaged by the county, and need not follow the form of the then-current impact fee report), the board may, but in no event later than April 15 prior to each fifth county fiscal year commencing with county fiscal year 2018-19 (i.e., these provisions shall first apply to April 15, 2019) the board shall, up to the maximum amounts of those specific amounts of the fees, respectively, set forth in such updated fee study, update and adjust the specific amounts of the fees, respectively, set forth in the then-current schedule of fees, by adopting an updated schedule of fees as an ordinance, which is an amendment to this chapter."

## **Section 2. California Environmental Quality Act Findings**

The Board finds, determines, and declares as follows:

(1) Adopting this Sixth Ordinance Amendment does not have the potential to cause a significant effect on the environment. This Sixth Ordinance Amendment does not authorize new development or require it. Rather this Sixth Ordinance Amendment only (a) continues the temporary suspension, for an additional approximately five-month period, as provided above, of the County's requirement for building permit applicants to pay the County of Fresno's public facilities impact fees for construction that is subject to Chapter 17.90, of the County's and cities' collection of such fees during such period, and of any requirement in Chapter 17.90 for the County to consider and take any possible action on any annual update of any such fees under the schedule(s) of fees, without in any way whatsoever otherwise affecting Chapter 17.90, or the authority for any action taken or to be taken under it, including, but not limited to, the County's expenditure or other use of any County public facilities impact fees that have been required to be paid and collected pursuant to Chapter 17.90, and (b) extends the commencement of the first five-year interval requiring the County to conduct or obtain an updated fee study, as provided above, for updated public facilities impact fees. This Sixth Ordinance Amendment does not approve or foreordain approval of any County public facilities and does not mandate or alter the standards of County public facilities to be constructed or otherwise provided. Therefore, further

review of this Sixth Ordinance Amendment under the California Environmental Quality Act (“CEQA”), California Public Resources Code, section 21000 et seq., is not required.

(2) This Sixth Ordinance Amendment is not a “project” under CEQA, pursuant to subdivision (b)(4) of section 15378 of the CEQA Guidelines, Title 14 of the California Code of Regulations (“CEQA Guidelines”), because this Sixth Ordinance Amendment only relates to a governmental funding mechanism, or fiscal activities, which do not involve any commitment to any specific project, which may result in a potentially significant physical impact on the environment.

(3) This Sixth Ordinance Amendment is also exempt from review under CEQA pursuant to subdivision (b)(8) of California Public Resources Code, section 21080, and section 15061 and subdivision (a)(4) of section 15273 of the CEQA Guidelines, because this Sixth Ordinance Amendment only relates to the establishment, modification, or approval of a County rate or charge for obtaining funding for capital projects necessary to maintain County services within existing service areas. This Sixth Ordinance Amendment does not contemplate, identify, or approve expansion of the area for which County services are provided.

### **Section 3. Continuation of Chapter 17.90 as Amended**

Except as amended in this Sixth Ordinance Amendment, Chapter 17.90 (as previously amended) of the Ordinance Code of Fresno County shall continue in full force and effect according to its provisions.

### **Section 4. Effective Date.**

This Sixth Ordinance Amendment shall be effective immediately upon the Board’s adoption of this Sixth Ordinance Amendment. Within 15 calendar days after the Board’s adoption of this Sixth Ordinance Amendment, a summary of this Sixth Ordinance Amendment, with the names of those supervisors of the Board voting for and against it, shall be published once in a newspaper of general circulation, printed and published in Fresno County, and the Clerk to the Board shall post in the office of the Clerk to the Board a certified copy of the full text of this adopted Sixth Ordinance Amendment along with the names of those supervisors voting for and against it.

### **Section 10. Notice to Cities**

Within 15 calendar days after the Board’s adoption of this Sixth Ordinance Amendment, the County Administrative Officer shall cause notice of such adoption, including a copy of this Sixth Ordinance Amendment and its effective date, to be given to each of the cities; provided, however, that any delay in or failure of that notice does not affect the validity of the Board’s adoption of this Sixth Ordinance Amendment.

Passed and adopted by the Board of Supervisors of the County of Fresno, State of California, on October \_\_\_\_, 2017, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

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Brian Pacheco  
Chairman, Board of Supervisors

Attest:

Bernice Seidel, Clerk  
Board of Supervisors

By: \_\_\_\_\_  
Deputy

Approved as to legal form:  
Daniel C. Cederborg, County Counsel

By: \_\_\_\_\_  
Deputy