



RESOLUTION NO. 2010-19

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ADOPTING A POLICY TO EXPAND THE FEE DEFERRAL INCENTIVE FOR DOWNTOWN PRIORITY AREAS TO INCLUDE DEVELOPMENT PROJECTS OBTAINING CERTIFICATES OF OCCUPANCY

WHEREAS, on December 17, 2009, the Council adopted Resolution 2009-265, adopting a policy to defer payment of Citywide development impact fees for traffic signals, major streets, police facilities, fire facilities and park facilities in the Downtown Priority Areas; and,

WHEREAS, Resolution 2009-265 limited the policy and its associated incentives to those development projects that obtain building permits between December 17, 2009 and June 30, 2012; and,

WHEREAS, during Council deliberation on December 17, 2009, as to whether the policy contained any retroactive provisions, a desire was expressed to include a limited element of retroactivity to downtown development projects currently underway; and,

WHEREAS, the downtown development projects currently underway are best exemplified by those projects that had already obtained their building permits prior to December 17, 2009, but had deferred payment of their development impact fees to the time of occupancy and that have not yet obtained the certificate of occupancy; and

WHEREAS, allowing these impact fees, that were deferred to the time of issuance of the certificate of occupancy in the Downtown Priority Areas, to be paid under four equal payments, each amounting to 25 percent of the total fee, at three, four, five and six years from the date the City issues the certificate of occupancy, would provide an incentive to development within the Downtown Priority Areas by lessening the amount to be financed prior to building permit or occupancy and furthers the City's interest in revitalizing the historic commercial core area of the City; and,

Adopted 01-28-10  
Approved 02-08-10  
Effective 02-08-10

2010-19



WHEREAS, the City desires to provide these incentives for a limited period of time, specifically for development projects with complete entitlement applications filed prior to June 30, 2011 and that obtain building permits to construct the development projects between December 17, 2009 and June 30, 2012, or that obtain the certificate of occupancy between December 17, 2009 and June 30, 2012.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Fresno as follows:

1. Payment of Citywide Park Facility Impact Fees, Citywide Fire Facility Impact Fees, Citywide Police Facility Impact Fees, Citywide Major Street Impact Fees and Citywide Traffic Signal Mitigation Impact Fees shall be deferred to four equal payments due at three, four, five and six years from the date of issuance of the certificate of occupancy on development projects located within the Downtown Priority Areas as shown on Attachment "A", for any parcel located within Priority Areas 0, 1 or 2, upon execution of a Fee Deferral Covenant by the developer. Each of the four equal payments shall amount to 25 percent of the development impact fees due for the development project.
2. Notwithstanding Section 1, any deferred development impact fees will be due and payable in full by the developer prior to any sale or transfer of title to the affected real property as set forth in the Fee Deferral Covenant in accordance with the Mitigation Fee Act (Gov. Code §§66000 et seq.).
3. The Public Works Director or City Engineer is authorized to execute the Fee Deferral Covenant on behalf of the City and to include language as necessary to provide for future ability to prorate the deferred fees to individual lots should the developer elect to subdivide the property through a parcel map or subdivision map, or to require the portion of the deferred fees be paid in the event of a lot line adjustment that transfers only a portion of the property to another party.
4. The Fee Deferral Covenant shall be approved as to form by the City Attorney, contain a legal description of the affected property, and shall be recorded in the office of the Fresno County Recorder.



5. The Fee Deferral Covenant from the date of recordation shall constitute a lien against the property for payment of the outstanding fees.

6. The Public Works Director or City Engineer is authorized to record a release of the obligation upon proof that the Covenanter has fully complied with the terms of the Covenant and paid the deferred fees in full.

7. The incentives provided for by this resolution shall be limited to development projects with complete entitlement applications filed prior to June 30, 2011, and that obtain building permits or certificates of occupancy between December 17, 2009 and June 30, 2012.

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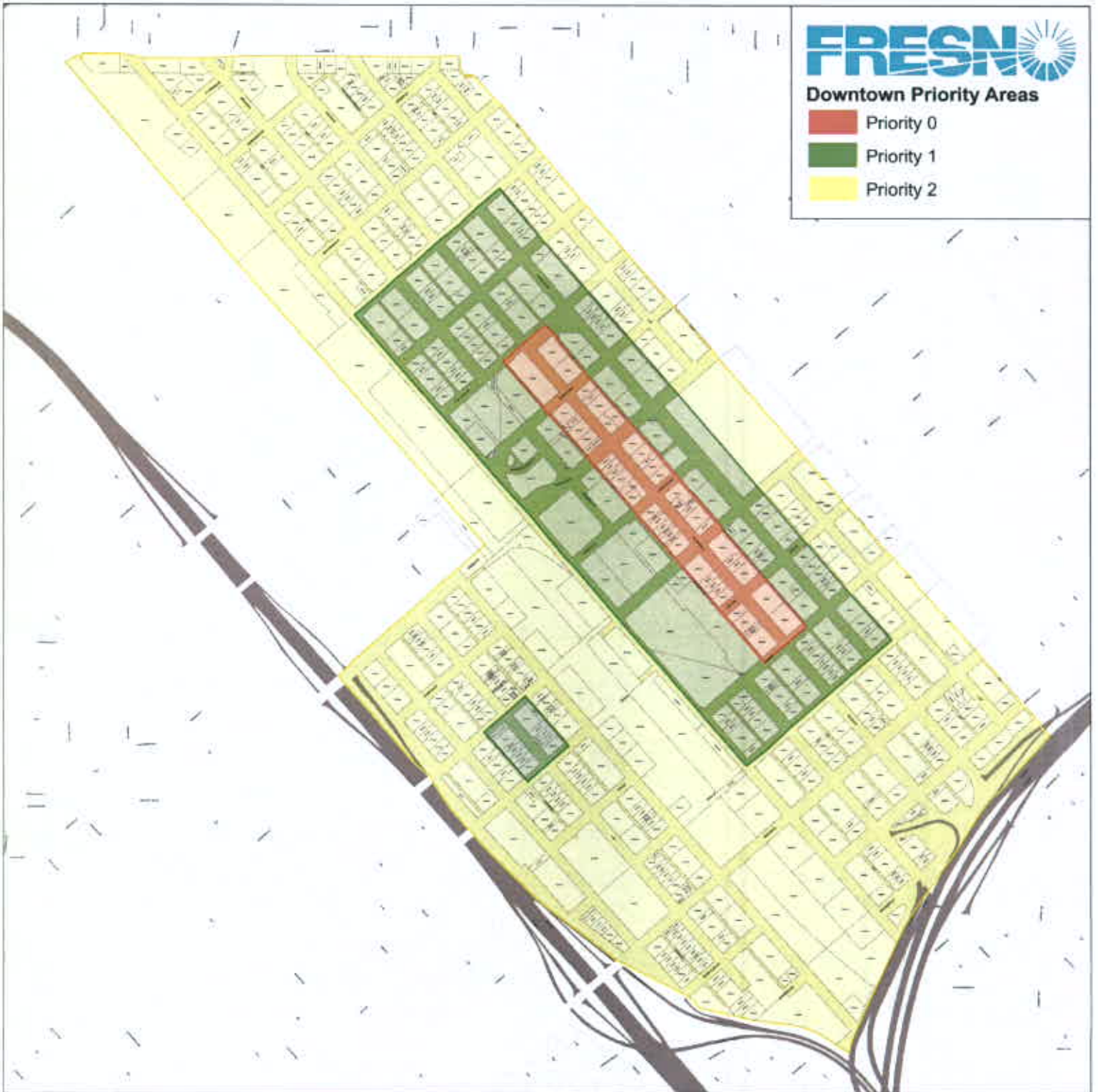
ATTACHMENT "A"



**FRESNO** 

**Downtown Priority Areas**

-  Priority 0
-  Priority 1
-  Priority 2





CLERK'S CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF FRESNO )  
CITY OF FRESNO )

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the 28th day of January, 2010.

AYES: Borgeas, Brand, Dages, Perea, Sterling, Xiong, Westerlund  
NOES: None  
ABSENT: None  
ABSTAIN: None

Mayor Approval: N/A, 2010  
Mayor Approval/No Return: February 8, 2010  
Mayor Veto: N/A, 2010  
Council Override Veto: N/A, 2010

REBECCA E. KLISCH  
City Clerk

By Rebecca Klisch

APPROVED AS TO FORM:

JAMES C. SANCHEZ  
City Attorney

By Tei Yukimoto  
Tei Yukimoto, Senior Deputy

Date: 1/28/10

January 29, 2010

Council Adoption: 01/28/10  
Mayor Approval:  
Mayor Veto:  
Override Request:

TO: MAYOR ASHLEY SWEARENGIN

FROM: REBECCA E. KLISCH, CMC  
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 1/28/10, Council adopted the attached Resolution No. 2010-19 entitled **Adopting policy to expand fee deferral incentive for downtown priority areas, etc.**, Item No. 11:00 A.M. F, by the following vote:

Ayes : Borgeas, Brand, Dages, Perea, Xiong, Sterling, Westerlund  
Noes : None  
Absent : None  
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before February 8, 2010. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10<sup>th</sup> day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

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**APPROVED:**

**VETOED** for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Ashley Swarengin, Mayor

Date: \_\_\_\_\_

**COUNCIL OVERRIDE ACTION:**

Ayes :  
Noes :  
Absent :  
Abstain :

Date: \_\_\_\_\_