



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** March 26, 2018

Approved

*D. DSYL*

Date

*4/5/18*

**COUNCIL DISTRICT: 3**

**SUBJECT: APPROVAL OF DOWNTOWN HIGH-RISE RESIDENTIAL INCENTIVE  
SUBSIDY OF \$236,133.00 FOR TWENTY ADDITIONAL UNITS IN SJSC  
TOWERS (MIRO) AT 33 N. FIFTH STREET**

## RECOMMENDATION

Conduct a Public Hearing regarding an economic development subsidy in connection with a reduction in construction taxes and parkland fees for twenty additional units in a Downtown residential high-rise at 33 N. Fifth Street in the amount of \$236,133, pursuant to California Government Code Section 53083.

## OUTCOME

Approval of an economic development subsidy in the amount of \$236,133 in accordance with the existing Downtown High-Rise Residential Incentive Program, approved by City Council in December 2016, for twenty additional residential units in the project at 33 N. Fifth Street in Downtown San Jose.

## BACKGROUND

On October 3, 2017 the City Council approved an economic development subsidy in the amount of \$8,475,023 for 610 units in the SJSC Towers (MIRO) at 33 N. Fifth Street. Subsequently, the project developer has proposed to build twenty additional units of housing in the project by converting a portion of the parking at the podium level to residential units. Under the current Downtown High-Rise Residential Incentive Program these additional units qualify for the same level of economic subsidy. This memo outlines the parameters of the economic subsidy for the newly proposed units, as well as the benefit that the City will receive from the construction of the additional units as required under Government Code Section 53083.

March 26, 2018

**Subject: Downtown High Rise Residential Incentive Subsidy**

Page 2

The current Downtown High-Rise Residential Incentive Program, approved by City Council on December 13, 2016, suspends 50% of construction taxes on high-rise developments in the Downtown Area (Appendix A) and allows for payment of the taxes to be delayed until the issuance of the Certificate of Occupancy. The Incentive Program also sets the park impact in-lieu fees charged for residential downtown high-rise developments at 50% of the applicable park impact in-lieu fees for multi-family 5+ units in the Downtown Area and allows for payment of park impact in-lieu fees to be delayed until issuance of the Certificate of Occupancy.

California Code Section 53083, enacted in 2014, requires local agencies to provide specified information to the public before approving an economic development subsidy over \$100,000. The state-required information is found in the table in the Fiscal/Policy Alignment section of this memorandum.

### **ANALYSIS**

SJSC Towers (MIRO) are two 28-story residential towers, directly across from City Hall on Santa Clara Street, between Fourth and Fifth Streets. With the addition of twenty residential units, the unit count in the towers will be reconfigured so that the west tower will include 304 residential units and the east tower 326 residential units. The project consists of three levels of underground parking and four levels of above ground parking, as well as six commercial condominiums to include approximately 14,381 square feet of ground floor commercial uses and up to 12,000 square feet of flex space.

To be eligible for the Downtown High-Rise Residential Incentive Program a project must:

- Be in the Downtown Area as defined in the 2000 Downtown Strategy and 2040 General Plan.
- Be at least 12 stories in height.
- Secure a foundation permit by July 2018.
- Complete final inspection of 80% of the units by December 2020.
- Pay deferred fees and taxes prior to the final inspection of 80% of the units.
- Retain contractors licensed by the State of California for the construction of the project.
- Employ only construction workers who possess necessary licenses and certifications required by the State of California.

Additionally, project developers should make a good faith effort to 1) comply with the State of California's apprenticeship program requirement and 2) ensure that 25% of those apprentices are identified as having an employment barrier.

The Downtown High-Rise Residential Incentive Program includes the park impact in-lieu fees and the City's two Construction Taxes applied to residential development.

### Park Impact In-lieu Fees

The City's park impact in-lieu fees are imposed on each new housing unit and are based on the premise that each new unit should offset the impact of new residents on public park facilities. The Schedule of Fees and Credits for park impact in-lieu fees is codified in the Parkland Dedication Ordinance (PDO) (Chapter 19.38 of the Municipal Code) and the Park Impact Fee Ordinance (PIO) (Chapter 14.25 of the Municipal Code). In 1998 City Council enacted amendments to set the fees based on unit occupancy and observed land values throughout the City. Pursuant to the State Quimby Act and Mitigation Fee Act, which empower the City to enforce the PDO/PIO, new residential development projects are obligated to provide three acres of parkland for every 1,000 new residents added by the housing development. Projects can comply with this obligation by dedicating land for public parks, paying an in-lieu park impact fee, constructing new park facilities, providing improvements to existing recreational facilities, or a negotiated combination of these options. Since most projects in the Downtown area are not able to provide parkland, this requirement is often converted to the in-lieu fees based on an annual assessment of the observed value of land. These fees provide the City with the resources to provide new parkland and/or rehabilitate or redevelop existing park amenities for new developments and their surrounding neighborhoods. The current fee for Downtown high-rise residential development applicable under this incentive program is \$21,400 per unit.

### Construction Taxes

The City's construction taxes include the Building and Structure Construction Tax (B&S) and the Commercial-Residential-Mobile Home-Park Building Tax (CRMP), both of which are based on the valuation of construction derived from the most current building valuation data table published by the International Code Council (ICC) or the developer's stated construction valuation, whichever is higher. The B&S tax rate on residential building construction valuation is 1.54%, and the CRMP tax rate on residential building construction valuation is 2.42%, for a combined tax of 3.96%. Proceeds are used to fund city-wide capital improvement projects such as repairs and redevelopment of existing recreational facilities and transportation-related projects and improvements, such as pavement maintenance, complete streets, pedestrian safety, and traffic calming projects.

### Proposed Economic Subsidy

The proposed economic subsidy for the addition of twenty residential units to this project is \$236,133 - \$22,133 from the suspension of 50% of construction taxes for the new units and \$214,000 from the suspension of 50% of applicable park impact in-lieu fees for the new units.

The total economic subsidy for the project is \$8,711,156: \$1,970,156 from the suspension of 50% of construction taxes and \$6,741,000 from the suspension of 50% of applicable park impact in-lieu fees.

## **EVALUATION AND FOLLOW-UP**

City staff will amend the current Project Completion Agreement with SJSC Properties LLC, as required under Resolution 78079, to reflect the addition of twenty residential units to the project,

for a total of 630 units. Staff will monitor project construction to ensure requirements of the Downtown High-Rise Residential Incentive Program are completed prior to the sunset date of December 31, 2020. The project must still comply with its parkland obligations per its entitlement conditions.

### **PUBLIC OUTREACH**

The memorandum will be posted on the City's website for the April 17, 2018 City Council agenda.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, the Department of Transportation and the Department of Parks, Recreation and Neighborhood Services.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation is associated with this action.

### **FISCAL/POLICY ALIGNMENT**

The project aligns with the City's Economic Development Strategy to position Downtown as Silicon Valley's City Center to attract a diverse range of residents.

Estimated one-time revenue to the City for the additional twenty units is \$247,614 of which \$24,433 is derived from construction taxes, \$214,000 from park impact in-lieu fees and \$9,181 from participation in the Business Cooperation Program.

Estimated annual recurring revenue to the City for the additional twenty units is \$7,400 of which \$7,000 is the City's portion of property tax collected and \$400 is the annual business tax.

The table below addresses the requirements set forth in the State of California (Government Code 53083) for publication of information related to an economic development subsidy of more than \$100,000 and a public hearing. The information below only pertains to the twenty new residential units proposed for SJSC Towers (MIRO).

<p><b>i. Name/address of benefiting business entity</b></p>	<p>SJSC Properties LLC 60 South Market Street, Suite 450 San Jose, CA 95113</p>
<p><b>ii. Start and end dates for the subsidy</b></p>	<p>Projects will become eligible for the subsidy per the current Downtown High-Rise Residential Incentive Program. The subsidy will become finalized upon payment of fees prior to the sunset date of the Downtown High-Rise Residential Incentive Program, subject to conditions therein.</p>
<p><b>iii. Description of the subsidy, estimated total amount of expenditure of public funds or revenue lost</b></p>	<p>The City shall suspend 50% of construction taxes on the high-rise constructed at 33 N. Fifth Street and shall allow payment of the taxes to be delayed until the issuance of the Certificate of Occupancy. The City shall also set the park impact charged for 33 N. Fifth Street at 50% of the applicable park impact fees for multi-family 5+ units and provide for payment of park impact fees at time of issuance of the Certificate of Occupancy. The estimated economic development subsidy is \$236,133 for the additional 20 units. The total economic subsidy for the project is \$8,711,156.</p>
<p><b>iv. Statement of public purpose</b></p>	<p>To encourage the development of high-rise residential in the Downtown Area, spurring increased retail amenities, attracting more employers, increasing transit use, and improving public life in San Jose. The aggregation of these factors will increase the economic vitality of the City's urban core and will translate to increased property tax and sales tax revenue to the City of San Jose.</p>
<p><b>v. Projected tax revenue</b></p>	<p>The addition of twenty residential units will add \$7,000 in annual property tax and \$400 in annual business tax revenue to the City of San Jose. Overall, this project is estimated to provide \$723,181 in annual recurring tax revenue to the City.</p>
<p><b>vi. Estimated number of jobs created, broken down by full time, part-time and temporary positions</b></p>	<p>The addition of twenty residential units will add 4,088 hours to the construction of the project. Overall, this project is estimated to create approximately 887 full-time construction jobs, with all salaries exceeding \$80,000 annually. Post construction, the project is estimated to create 215 on-site FTE positions in management, service and retail.</p>

HONORABLE MAYOR AND CITY COUNCIL

March 26, 2018

**Subject: Downtown High Rise Residential Incentive Subsidy**

Page 6

**CEQA**

Addendum to the Downtown Strategy 2000 EIR, the Envision San Jose 2040 General Plan and the Envision San Jose 2040 General Plan Supplemental EIR, Planning File No. SP17-009.

/s/

KIM WALES

Deputy City Manager

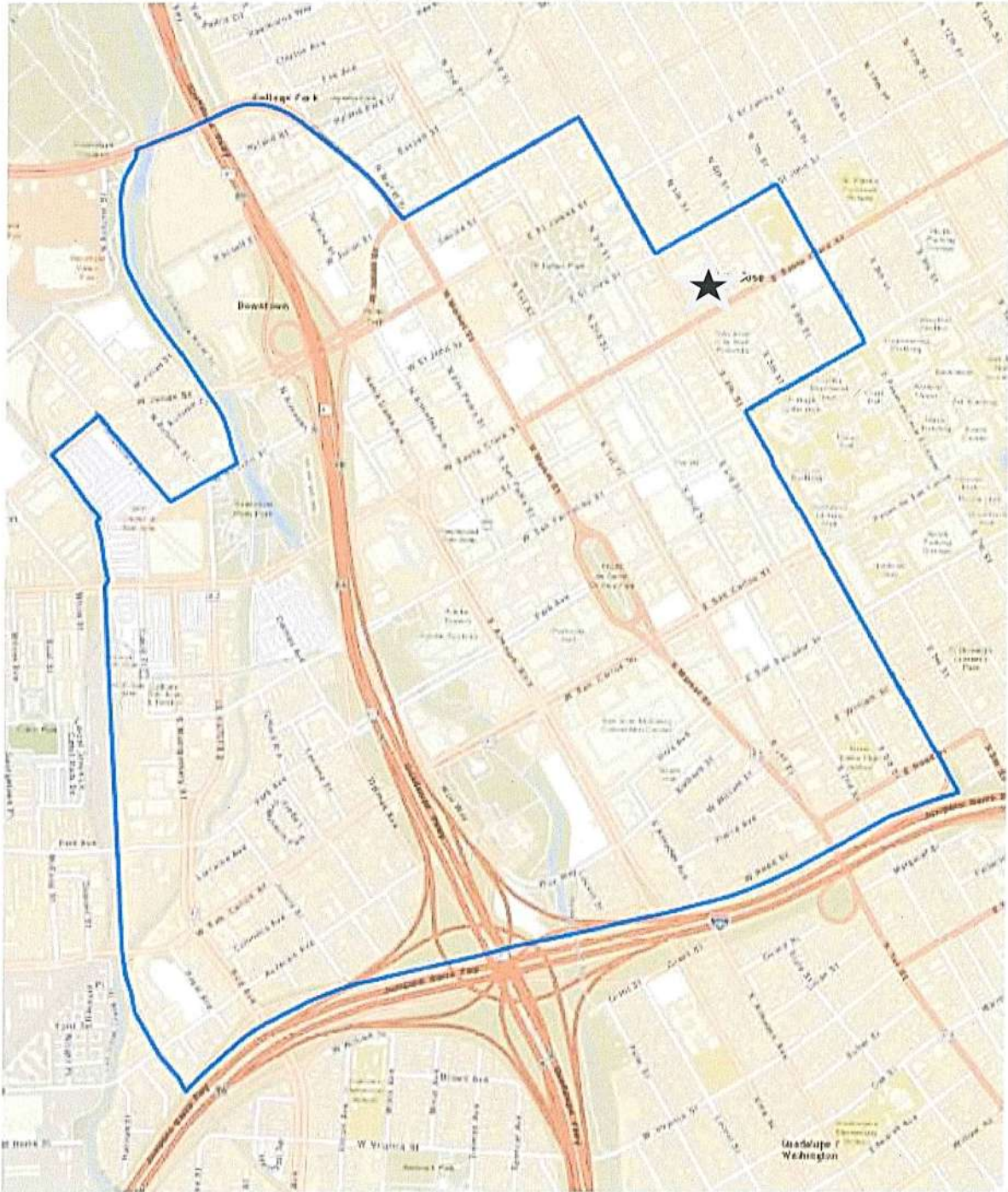
Director of Economic Development

For questions please contact Blage Zelalich, Downtown Manager at (408) 535-8172.

Attachments

**Appendix A: Downtown Boundary Map and Location of Project**

**Envision 2040 San Jose General Plan  
Downtown Growth Area**



Map Prepared by the City of San Jose Planning Division, November 2016



**Appendix B: Project Renderings**



**Figure 1 – View from Fourth Street**



**Figure 2 – View down Santa Clara Street**