

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE TAX AND FEE WAIVER ESTABLISHED UNDER THE MULTIPLE HOUSING INCENTIVE PROGRAM AND A REFUND FOR AFFORDABLE HOUSING IMPACT FEE PAYMENTS FOR THE SANTANA ROW LOT 12 DEVELOPMENT LOCATED AT 358 HATTON STREET AND AUTHORIZING THE HOUSING DIRECTOR, OR HIS DESIGNEE, TO NEGOTIATE AND EXECUTE DOCUMENTS AND DOCUMENT AMENDMENTS RELATED TO IMPLEMENTING THE MULTIFAMILY HOUSING INCENTIVE PROGRAM, SUCH AS CONSTRUCTION PROGRESS AGREEMENTS**

**WHEREAS**, on December 10, 2024, the Council of the City of San José (“City”) adopted the Multifamily Housing Incentive Program (“MHIP”) under Resolution No. RES2024-420, which provides for specified projects, upon meeting conditions, a reduction of certain fee and tax requirements, including a reduction in the Inclusionary Housing Ordinance In-Lieu Fee, and a 50% reduction to the Commercial, Residential, Mobile Home Park (“CRMP”) and Building Structure (“B&S”) construction taxes (collectively, “Fee Reduction”) for the first 1,500 units that obtain City building permits by December 31, 2025, and a 25% reduction in the B&S tax to subsequent projects that obtain City building permit after the 1,500 units, or on or after January 1, 2026; and

**WHEREAS**, on May 13, 2025, the MHIP ordinance was amended to increase the number of units that obtain a building permit by December 31, 2025, that are eligible for the 50% reduction to B&S and CRMP taxes from 1,500 to 1,800 units, to become effective on June 20, 2025; and

**WHEREAS**, under Resolution No. RES2024-420, the Fee Reduction permitted under MHIP is not a subsidy subject to Chapter 14.10 of the San José Municipal Code; and

**WHEREAS**, the MHIP requires that the qualifying projects must provide at least five percent of the residential units as deed-restricted affordable units made available at an affordable rent to households earning no more than 100% of Area Median Income, and otherwise meets the requirements of the Inclusionary Housing Ordinance (“IHO”); and

**WHEREAS**, the Santana Row Lot 12 development is a proposed development located on a 29.4-gross acre site at 358 Hatton Street that will consist of a five-and-a-half story building, one below and one above grade level of parking, and up to 258 units, including 13 restricted affordable units with maximum rents at 100% area median income with a mix of studios, one-bedroom, and two-bedroom units (“Santana Row Lot 12 Development”); and

**WHEREAS**, the Santana Row Lot 12 Development is included in the MHIP; and

**WHEREAS**, the Santana Row Lot 12 Development will join the MHIP by being reimbursed for the Affordable Housing Impact Fee (“AHIF”) previously paid to the City by the Santana Row Lot 12 developer, Federal Realty; and

**WHEREAS**, on May 13, 2025, City Council authorized the Housing Director to proceed with issuing this AHIF reimbursement to Federal Realty, subject to completing a 28-day public subsidy notice and hearing requirement pursuant to City Council Resolution 2024-99 and California Government Code Section 53083; and

**WHEREAS**, in compliance with the MHIP, City Council approval will provide a Fee Reduction in the amount of up to \$7,913,568 and a refund of \$3,435,672 in AHIF payments to Federal Realty for the Santana Row Lot 12 Development; and

**WHEREAS**, consistent with Resolution No. RES2024-99 and State law, a staff report providing a cost/benefit evaluation was prepared and posted on the City’s website

twenty-eight (28) calendar days ahead of City Council considering the Fee Reduction for the Santana Row Lot 12 Development; and

**WHEREAS**, City Council approval will also authorize the Housing Director, or his designee, to negotiate and execute documents related to implementation of the MHIP, including, but not limited to, affordable housing compliance plans, inclusionary housing agreements, and project completion agreements, with the developer of the Santana Row Lot 12 Development; and

**WHEREAS**, the Santana Row Lot 12 Development must comply with its affordable housing compliance plan and record an amended Inclusionary Housing Agreement against the project site, memorializing the requirements under the MHIP and the IHO before building permit issuance;

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

- A. The above recitals are true and correct.
- B. A refund of \$3,435,672 in Affordable Housing Impact Fee payments for the Santana Row Lot 12 Development is approved.
- C. The Fee Reduction of up to \$7,913,568 for the Santana Row Lot 12 Development is approved consistent with the Multifamily Housing Incentive Program.
- D. The Housing Director, or his designee, is authorized to negotiate and execute documents and document amendments related to implementing the Multifamily Housing Incentive Program, such as construction progress agreements.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, MMC  
City Clerk