



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Erik L. Soliván
Chris Burton
John Ristow

SUBJECT: See Below

DATE: February 26, 2025

Approved

Date: 3/6/2025

COUNCIL DISTRICT: 4

SUBJECT: Approval of a Multifamily Housing Incentive Program Residential Tax and Fee Waiver for 905 North Capitol Avenue

RECOMMENDATION

- (a) Conduct a public hearing to approve an economic development tax and fee waiver in connection with a reduction in construction taxes and a reduction of the Inclusionary Housing Ordinance in lieu fee for 905 North Capitol Avenue, which meets the requirements of the Multifamily Housing Incentive Program enacted by the City Council on December 10, 2024 in an amount of up to \$4,905,022 pursuant to California Government Code Section 53083 and Open Government Resolution No. 77135 Section 2.3.2.6.C.
- (b) Adopt a resolution approving the tax and fee waiver 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 project completion agreements.

SUMMARY AND OUTCOME

In compliance with the Multifamily Housing Incentive Program (MHIP), City Council approval will provide a total fee tax reduction and fee waiver in the amount of \$4,905,022 for the development project located at 905 North Capitol Avenue. City Council approval will also allow the Housing Director, or his designee, to negotiate and execute project completion agreements with the developer of the 905 North Capitol Avenue project.

BACKGROUND

On December 10, 2024, City Council adopted the MHIP that allows for the reduction of fee and tax requirements, offering a 50% reduction to the Commercial, Residential, Mobile Home Park (CRMP), and Building and Structure (B&S) construction taxes for the first 1,500 units that obtain City building permits by December 31, 2025, and a 25% reduction in the B&S construction tax to projects that obtain City building permits on or after January 1, 2026. The MHIP also extends and expands the Inclusionary Housing Ordinance (IHO) \$0 in lieu fee reduction, which was previously granted only for downtown high-rise developments.

To be eligible for the 50% reduction in the CRMP and the B&S construction taxes, and the reduction to a \$0 IHO in-lieu fee, a project must meet the requirements as listed in the project eligibility criteria under Section 1: Proposed MHIP Parameters of the MHIP¹ staff memorandum.

ANALYSIS

The development project located at 905 North Capitol Avenue is included in the MHIP. The development project must comply with its amended affordable housing compliance plan and record an Inclusionary Housing Agreement against the site, memorializing the requirements under the MHIP term of the IHO in-lieu fee reduction before building permit issuance. City staff will also execute an IHO agreement with the developer to ensure the additional requirements of the tax reduction are met.

905 North Capitol Avenue Project Description

The proposed multifamily development at 905 North Capitol Avenue is located on a 2.12-acre site. The development will consist of a seven-story, mixed-use building, with approximately 3,000 square feet of office space, one level of underground parking with 364 parking spaces, and up to 345 apartment units, including 17 restricted affordable units at 100% Area Median Income with a mix of studios, one-bedroom, and two-bedroom units. The **Attachment**, 905 North Capitol Avenue Project Renderings, in this memorandum, provides a visual rendering of the development.

Construction Taxes

The City's construction taxes include the CRMP and the B&S, both of which are based on the valuation of construction derived from the most current building valuation data

¹ File: 24-2305, Item 8.2, Meeting Date: December 10, 2024, Item Title: Multifamily Housing Incentive Program and North San José Park Fee Realignment, Web Link: <https://sanjose.legistar.com/View.ashx?M=F&ID=13583575&GUID=F101D3D4-D65C-407D-9B6C-234BDE8EB26A>

table published by the International Code Council or the developer’s stated construction valuation, whichever is higher. The CRMP tax rate on residential building construction valuation is 2.42%, and the B&S tax rate on residential building construction valuation is 1.54%, 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. **Table 1** provides an overview of the construction taxes for the 905 North Capitol Avenue development.

Table 1 – Construction Tax Overview

	905 North Capitol Avenue Development
Standard CRMP and B&S Construction Taxes	\$1,722,277
50% Tax Reduction	\$861,139
CRMP and B&S Taxes to be Received	\$861,138

Inclusionary Housing Ordinance

The IHO was adopted to require all residential developers constructing new or modified rental or for sale residential units to comply with a base requirement of 15% on-site affordable housing units within the development. The original IHO obligation allowed developers to pay a reduced in lieu fee and provide 5% of their total units to construct affordable housing. The IHO in lieu fee methodology is based on the net residential square footage calculation. The current fiscal year fee for mixed compliance is \$13.80 per net residential square foot for projects located in the Moderate Market Area. **Table 2** provides a summary of the projected total IHO in lieu fee waived for the 905 North Capitol Avenue development.

Table 2 – Waived IHO In Lieu Fees

Development	Market Area	FY 24-25 IHO In Lieu Fee Rate	Net Residential Square Footage	Waived IHO In Lieu Fee
905 North Capitol Avenue	Moderate Market	\$13.80	293,035	\$4,043,883

Table 3 provides a summary of the total proposed tax and fee waiver for the 905 North Capitol Avenue development.

Table 3 – Proposed Tax and Fee Waiver

IHO In Lieu Fee	\$4,043,883
50% reduction of CRMP and B&S construction taxes on the residential portion of the building	\$861,139
Total Tax Reduction and Fee Waiver	\$4,905,022

EVALUATION AND FOLLOW-UP

City staff will execute agreements with the developer of 905 North Capitol Avenue as required under the San José Municipal Code Sections 4.46.039.11 4.47.089 and monitor project construction to ensure the MHIP requirements are fulfilled. The project must still comply with the affordable housing compliance plan and record an Inclusionary Housing Agreement against the sites prior to building permit issuance.

COST SUMMARY/IMPLICATIONS

The project aligns with the City’s Envision San José 2040 General Plan to spur the development of multifamily residential in identified growth areas within the City of San José.

Table 4 addresses the requirements set forth in the City of San José’s Resolution No. 77135 for the publication of information related to an economic development waiver of more than \$1,000,000.

Table 4 – City of San Jose Cost/Benefit Evaluation

a) Accountability	MHIP suspends 50% of construction taxes for eligible developments and allows for payment of taxes to be delayed until the issuance of the first Certificate of Occupancy, and an IHO In-Lieu Fee Reduction to \$0 to the IHO in-lieu fee for projects meeting certain conditions.
b) Net Fiscal Impact	The project is estimated to generate a one time revenue of \$861,138 in construction taxes. The construction tax revenue forgone is \$861,139. The IHO in-lieu fee revenue forgone is \$4,043,883.

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c) Net Job Impact	Based on estimates from the developer, the project will create approximately 498 full-time construction jobs through the sub-contractors; 90% of these construction jobs will generate an annual salary above \$60,000. The recipient will provide health insurance to all employees.
d) Housing Impact	This project will deliver 345 new market-rate (above 120% of Area Median Income) housing units and 5% or 17 moderate-income units at 100% of Area Median Income. Based on the reported net job impact above, no new extremely low-income housing units would be required for employees hired to implement the project.
e) Source Of Funds	The program does not provide funds directly to the projects. It is a suspension of 50% of construction taxes, and a reduction to \$0 of the IHO in-lieu fee. The project is estimated to generate a one time revenue of \$861,138 across multiple funds.
f) Neighborhood Impacts	No significant impacts are anticipated on traffic or public infrastructure, given that funding being transferred to the traffic capital fund to mitigate the one-time revenue reduction.

Table 5 addresses the requirements set forth in the State of California Assembly Bill 562 (Government Code 53083) for publication of information related to an economic development subsidy and a public hearing.

Table 5 – State of California Cost/Benefit Evaluation

a) Name/Address of Benefiting Business Entity	HTHC North Capitol LLC. 1780 S. Post Oak Lane Houston Texas, 77056
b) Start and End Dates for the Subsidy	Projects are eligible for the subsidy per the MHIP after the issuance of building permits prior to December 31, 2025. The subsidy will become finalized upon payment of taxes, prior to the issuance of the first Certificate of Occupancy, subject to conditions therein.

c) Description of the Subsidy, Estimated Total Amount of Expenditure of Public Funds or Revenue Lost	The City shall suspend 50% of construction taxes on the high-rise constructed at 905 North Capitol Avenue and shall allow payment of the taxes to be delayed until the issuance of the Certificate of Occupancy. The City shall also provide a reduction to \$0 in the IHO in-lieu fee. The estimated economic development subsidy is \$4,905,022.
d) Statement of Public Purpose	To encourage the development of multifamily residential development, spurring increased retail amenities, attracting more employers, increasing transit use, and improving public life in San José. The aggregation of these factors will increase the economic vitality of the City and will translate to increased property tax and sales tax revenue for the City .
e) Projected Tax Revenue	The project is estimated to generate a one time revenue of \$861,138 in construction taxes.
f) Estimated Number of Jobs Created, Broken Down by Full-Time, Part-Time, and Temporary Positions	Based on estimates from the developer, the project will collectively create approximately 367 full-time construction jobs; 90% of these construction jobs will generate an annual salary above \$60,000.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, the City Manager's Office of Economic Development and Cultural Affairs, and the Parks, Recreation, and Neighborhood Services Department.

PUBLIC OUTREACH

The memorandum will be posted on the City's website for the March 18, 2025 City Council agenda.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation is associated with this action.

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CEQA

Mitigated Negative Declaration for the 905 North Capitol Residential Development Project, File Nos. H21-015/ER21-061.

PUBLIC SUBSIDY REPORTING

This item includes a public subsidy as defined in the City's Open Government Resolution section 2.2.10 and is in the amount of \$1,000,000 or more. An informational memorandum, as described in Open Government Resolution Section 2.3.2.6.C, was posted at least 28 calendar days prior to the City Council meeting at which the subsidy will be considered². The Director of the City Manager's Office of Economic Development and Cultural Affairs has been informed of this subsidy to ensure that it is tracked appropriately.

/s/

Erik L. Soliván
Housing Director

/s/

Chris Burton
Planning, Building and
Code Enforcement Director

/s/

John Ristow
Transportation Director

For questions, please contact Banu San, Deputy Director, Housing Department, at Banu.San@sanjoseca.gov.

ATTACHMENT: 905 North Capitol Avenue Project Renderings

² Date Posted: February 18, 2025, Information Memorandum Title: Approval of a Multifamily Housing Incentive Program Residential Tax and Fee Waiver for 905 North Capitol Avenue, Web Link: <https://www.sanjoseca.gov/your-government/departments-offices/housing/resource-library/information-memos>

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