



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

**SUBJECT: RESIDENTIAL CONSTRUCTION
TAX CONTRIBUTION RATE
AMENDMENTS**

DATE: May 24, 2021

Approved

Date

5/28/2021

RECOMMENDATION

Adopt a resolution:

- a) Amending the contribution rates for eligible improvements under the residential construction tax contribution fund pursuant to San Jose Municipal Code Section 4.64.100; and
- b) Adjusting automatically the contribution rates on July 1 of each year by the Engineering News-Record Construction Cost Index.

OUTCOME

Adopting the resolution will amend contributions to development projects that construct eligible improvements pursuant to San Jose Municipal Code Section 4.64.100 and automatically adjust the rates on July 1st of each year. These changes are only being made to the contribution rates when the City provides a contribution to developer projects. This council action does not impact the construction tax rates that developers pay to the City. This change will better align contribution rates with construction costs, which will allow effective use of City funds to construct eligible improvements in alignment with San Jose Complete Streets Design Standards & Guidelines and General Plan goals.

BACKGROUND

The Residential Construction Tax ("RCT") is set forth in Chapter 4.64 of the San Jose Municipal Code. With certain specified exceptions, the RCT imposes a tax on all new residential development in the City to help fund the cost of median island improvements and maintenance of existing improvements. Tax proceeds are deposited in the Residential Construction Tax Contribution Fund and used to pay for "eligible improvements" as set forth in Chapter 4.64.

On October 30, 1990, City Council adopted Ordinance 23649 which amended Chapter 4.64 of the San Jose Municipal Code (Code) by adding Section 4.64.100. Section 4.64.100 clarified uses of the residential construction tax fund and included the option for the City to contribute portions of the fund to developments that chose to construct eligible public street improvements or provided maintenance of existing eligible improvements contiguous to or in connection with residential development. Eligible improvements include construction and repair of landscaped median islands as well as grading and paving of lanes used exclusively for left-turn vehicular movement and certain portion of a street. Additionally, Section 4.64.100 identified that contribution rates would be set by Council resolution.

On May 5, 1991, City Council adopted Resolution 63698 which set contribution rates for asphalt concrete and reinforcement. Although development projects chose to construct eligible improvements early on, few have done so in recent years. Staff is recommending amending contributions to development projects to market rate construction costs to leverage available funds and to better align with actual costs.

ANALYSIS

In the last 10 years, the residential construction tax contribution fund balance grew from approximately \$815,000 to \$2.3 million. Despite available funds, few development projects have chosen to construct eligible improvements in the past decade. No expenditures were made from the fund in the last seven years except for fiscal year 2017-2018 for contributions totaling \$331,000. Development projects have been reluctant to build improvements because construction costs would greatly exceed any contributions they could receive from the City. Aligning contribution rates with construction costs could increase interest from development projects to construct improvements and result in more effective use of funds. Additionally, partnering with development projects to build street improvements could result in cost savings by eliminating city design and construction management costs.

Per Council Resolution 63698, contribution rates for asphalt concrete and reinforcement are \$2.50 per square foot and \$0.16 per inch per square foot, respectively. However, these rates are inconsistent with construction costs and do not reflect the full costs associated with constructing eligible improvements such as saw cutting, excavating, backfilling, grading, and constructing curb and gutter. Additionally, the contribution rate set in 1991 of dollars per square foot (\$/sf) of asphalt concrete is inconsistent with the current industry standard unit price of dollars per ton (\$/ton). This can result in development projects receiving less contributions for eligible improvements as it does not account for pavement depth. Amending the contributions will allow development projects to receive reimbursement that is closer or equal to the full cost of constructing the eligible improvements. Contribution rates will be automatically adjusted annually on July 1st by the Engineering News-Record Construction Cost Index.

CONCLUSION

Approving the recommendation will increase contributions to development projects and automatically adjust the rates on July 1st of each year. Increasing contributions will bring reimbursement amounts to current market rates. Development projects will then be able to be reimbursed in accordance with the new rates for building eligible improvements that will serve and benefit the community.

EVALUATION AND FOLLOW-UP

No further follow-up actions with the Council are anticipated at this time.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum and proposed resolution will be posted on the City's Council Agenda website for the June 8, 2021 Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

The recommendation is consistent with the Council-approved Budget Strategy to explore alternative service delivery models to reduce and/or share costs and use City resources more efficiently and effectively.

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COST SUMMARY/IMPLICATIONS

No direct costs are associated with the recommendation. Contributions to development projects that construct future eligible improvements will be funded by the Residential Construction Tax Contribution Fund (420) and will not exceed appropriations.

CEQA

Not a Project, File No. PP17-005, Adjustment to Fees, Rates and Fares without changes to or expansion of services.

/s/
MATT CANO
Director of Public Works

For questions, please contact J Guevara, Deputy Director, at (408) 807-1801.