

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN JOSE AUTHORIZING THE ESTABLISHMENT OF A  
TEMPORARY MULTIFAMILY HOUSING INCENTIVE  
PROGRAM FOR SPECIFIED ELIGIBLE MULTIFAMILY  
RESIDENTIAL PROJECTS**

**WHEREAS**, on June 18, 2024, the City Council extended and modified the Downtown Residential High-Rise Incentive Program that applies exclusively to residential high-rise located in the Downtown Planned Growth Area defined in the City's Envision San José 2040 General Plan to reduce the City's two primary construction taxes and deferral of payment of these taxes to final inspection and reducing the Inclusionary Housing Ordinance in-lieu fees to \$0 subject to certain conditions being met; and

**WHEREAS**, in addition to extending and modifying the Downtown Residential High-Rise Incentive Program, the City Council directed staff to study additional strategies for promoting citywide housing construction aimed at Growth Areas defined the Envision San José 2040 General Plan with an emphasis on those projects with project applications that were deemed complete by the Planning Department by the end of June 2022; and

**WHEREAS**, the City received an allocation 62,200 units from the Association of Bay Area Governments and adopted by the California Department of Housing and Community Development for its 6th Cycle Housing Element covering the period of January 31, 2023 to January 31, 2031; and

**WHEREAS**, San José has experienced modest production of affordable housing in the last several years and continues to underperform in housing production, particularly in the last calendar year for multifamily housing market rate housing; and

**WHEREAS**, on October 26, 2023, the City Council held a study session and received the latest report on the Cost of Residential Development (“Report”), which concluded that current economic conditions remain a significant barrier to the construction of new market rates and affordable housing within Downtown and citywide; and

**WHEREAS**, following the Report, Century Urban, the City’s Consultant, provided an updated high-level feasibility analysis, noting that there has been no material improvement in key drivers of economic feasibility since publishing the Report and therefore no indication or evidence that the challenging residential development economics observed in the 2023 analysis have improved; and

**WHEREAS**, Chapter 14.10 of the San José Municipal Code sets “Minimum Labor Standards for a Private Construction Project Accepting a City Subsidy”, defining a subsidy to include any “reduction, permanent suspension or exemption of any fee or tax” that applies to single or multiple projects; and

**WHEREAS**, construction projects receiving a City subsidy are required to pay all workers employed on the construction prevailing wage rates, and are subject to other provisions such as requiring apprenticeships and local hire, among others; and

**WHEREAS**, there are exemptions to the definition of a subsidy that include the reduction of a fee or tax that is applied uniformly across all private construction projects within a specific subcategory of use, e.g., high-rise residential, when City Council determines, based on specified criteria, that construction of the projects is not financially feasible; and

**WHEREAS**, the City recognizes the importance of supporting Residential Development to complement job growth, catalyze transit usage, and foster vibrant retail environments; and

**WHEREAS**, based on the results of the analysis in the Report and the updated analysis regarding the lack of financial feasibility, Council desires to establish the Multifamily Housing Incentive Program applicable to specified multifamily residential developments listed under Attachment A, attached hereto; and

**WHEREAS**, based on the Report and subsequent analysis conducted by the Consultant, the City has determined that the fee reduction permitted under the Multifamily Housing Incentive Program is not a subsidy; and

**WHEREAS**, Attachment A to this Resolution contains the list of projects eligible for the proposed Multifamily Housing Incentive Program that includes a total of ~~34~~35 projects with up to ~~10,039~~9,633 units with ~~7,530~~357 market-rate and ~~2,509~~276 affordable meeting specified requirements as described further in the Memorandum; and

**WHEREAS**, the list of eligible projects in Attachment A (“Projects”) are generally located in a Planned Growth Area, e.g., Urban Village, defined in the Envision San José 2040 General Plan, have a density exceeding 50 dwelling units per acre equivalent to the minimum density in the Envision San José 2040 General Plan Transit Residential land use designation, and submitted a project application that was deemed complete by the Department of Planning, Building, and Code Enforcement by the end of December 2022; and

**WHEREAS**, the Multifamily Housing Incentive Program established herein and further defined in the Resolution and Ordinance approved concurrently herewith generally provides a waiver of the Inclusionary Housing Ordinance (IHO) in lieu fees for Projects providing at least 5% of units at an affordable housing cost or affordable rent available to households earning no more than 100% Area Median Income (AMI) that are approved by the Housing Director consistent with the Program requirements including amending the Project’s Inclusionary Housing Compliance Plan, and also provides a 50% reduction in

the Building and Structure Construction Tax and Commercial, Residential and Mobile Home Park Construction Tax for the first 1,500 units meeting specified deadlines and 25% reduction thereafter for the remaining units in such Projects; and

**WHEREAS**, the Multifamily Housing Incentive Program is established based on the findings of the Memorandum, the Report, and the documents linked to the Memorandum;

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

- A. The above recitals are true and correct.
- B. The City Council finds that the fee reduction permitted under the Multifamily Housing Incentive Program is not a subsidy under Chapter 14.10.
- C. The City Council hereby establishes the Multifamily Housing Incentive Program applicable to specified multifamily residential projects included in Attachment A attached hereto.
- D. The application of the Multifamily Housing Incentive Program is further defined and described in the Resolution and Ordinance approved concurrently herewith, as may be amended or superseded.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024, 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

## ATTACHMENT A

### LIST OF ELIGIBLE MULTIFAMILY HOUSING PROJECTS

#### Market-Rate Projects

	Project Address	Developer	Last Entitlement Expiration	Units
1	498 West San Carlos	Urban Catalyst	12/14/2028	<del>278</del> 272
2	4300-4360 Stevens Creek	Fortbay/Perry Hariri	8/30/2028	407
3	14200 Union	Weingarten Investors	11/2/2028	305
4	1312 El Paseo de Saratoga/1177 Saratoga	Sand Hill Property	11/29/2029	772*
5	205 Dupont	Miramar Capital/Perry Hariri	5/4/2028	689
6	700 Saratoga	Avalon Bay Communities	3/17/2027	247
7	905 North Capitol	Hanover	6/29/2028	<del>345</del> 350
8	1298 Tripp; 1325/1347 E. Julian	ROYGBIV	11/29/2029	913
9	70 N. 27th	HC Investment LLC	5/31/2029	198
10	1530 W. San Carlos	Urban Villas LLC	6/28/2029	237
11	1520 W. San Carlos	Vivji Mani	7/12/2029	256
12	1050 Saint Elizabeth	Evershine XVII LP	4/19/2029	206
13	West San Carlos and Sunol	Republic Urban	5/4/2028	263
14	1065 S. Winchester	A&Z Development	10/25/2028	70
15	1073 S. Winchester	A&Z Development	8/25/2027	61
16	605 Blossom Hill	Republic Urban	8/9/2028	239
17	1197 Lick/Tamien Station	Republic Urban	12/9/2026	434
18	681 E. Trimble	Hannover Company	8/14/2028	<del>1318</del> 114 6
19	210 Baypointe	Summerhill Homes	10/22/2028	292

\*Revised number of project units pending City Council approval.

**Total** ~~7530~~**7357**

#### Affordable Projects

	Project Address	Developer	Last Entitlement Expiration	Units
1	802 S. First	Maracor/Pacific West	10/12/2028	166
2	<del>424 N. 15th</del> 2080 Almaden	<del>Affirmed Housing Group</del> Santa Clara Housing Authority	<del>9/2/2027</del> 10/6/2029	<del>403</del> 80
3	1371 Kooser	Affirmed Housing Group	8/24/2028	<del>191</del> 190
4	525 N. Capitol	Community Development Partners	9/1/2028	160
5	771-797 Almaden	Resources for Community Development	1/28/2028	99
6	675 E. Santa Clara St.	Housing Authority/Eden/Core	4/20/2028	<del>559</del> 178

7	<del>1135 E. Santa Clara</del> <u>605 Blossom Hill</u>	Green Republic Blossom Hill LLC	8/9/2028	89
8	70 Kentucky Place	Charities Housing	11/9/2029	55
9	501 Almaden	Satellite Housing	9/1/2028	53
10	1135 E. Santa Clara	Allied Housing	10/9/2026	91
11	2315 Canoas Garden	Sand Hill Property Co	1/10/2028	237
12	995 E. Santa Clara	First Community Housing	9/23/2028	74
13	2920/2928 Alum Rock	Charities Housing	9/1/2028	83
14	934-948 E. Santa Clara	Milestone Housing Group	8/8/2029	103
15	71 Vista Montana	Charities Housing	3/21/2029	446
16	<u>178 E. Trimble</u>	<u>Pacific Companies</u>	<u>8/14/2028</u>	<u>172</u>

**Total** **25092276**