

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (1) APPROVING THE REDUCTION OF THE CITY'S EQUITY SHARE PAYMENT FROM 30% TO 15% FOR THE CITY'S SINGLE-FAMILY HOUSING PORTFOLIO'S FIRST-TIME HOMEBUYER LOAN PROGRAM IN ACCORDANCE WITH APPLICABLE LAWS AND FUNDING SOURCE REQUIREMENTS; AND (2) AUTHORIZING THE HOUSING DIRECTOR, OR HIS DESIGNEE, TO RENEGOTIATE THE EQUITY SHARING PROVISION AND NEGOTIATE AND EXECUTE HOMEBUYER LOAN DOCUMENTS AND ALL OTHER DOCUMENTS, INCLUDING ANY AMENDMENTS THERETO, RELATED TO THE CITY'S SINGLE-FAMILY HOUSING PORTFOLIO'S FIRST-TIME HOMEBUYER LOAN PROGRAM IN ACCORDANCE WITH APPLICABLE LAWS AND FUNDING SOURCE REQUIREMENTS

WHEREAS, the City of San Jose ("City") established a First-Time Homebuyer Program ("Program") in the 1990s as part of the City's single-family housing portfolio to provide downpayment assistance to eligible first-time homebuyers who purchased a below-market-rate property, and where participants of the Program obtained a specific type of loan with Equity Share provisions, and an Affordability Restriction recorded on the property's title to secure the loan(s); and

WHEREAS, the principal total value of the City's single-family housing portfolio's Equity Share loans is \$30,827,666 made up of 790 loans with a \$70,383 average loan per home, of which 438 have an Equity Share loan payment provision; and

WHEREAS, the City used "20% Redevelopment Low and Moderate Income Housing Asset Funds" as a source to finance the downpayment assistance for these loans. The Promissory Note is typically payable in full on the 30th anniversary of the recording date or upon the sale of the property and requires that any unpaid principal balance,

including the Equity Share, is due in full upon maturity of the Promissory Note or if the property is sold. Additionally, an Affordability Restriction is recorded against properties with these loans; and

WHEREAS, Affordability Restrictions and first time homebuyer assistance loan documents limit the amount of equity a homeowner can obtain upon the sale of a deed-restricted below-market-rate property by requiring that only a percentage of equity from the sale of the Owner-Occupied Assisted Unit may go to the selling homebuyer and that the remaining equity go to the City (each an “Equity Share”), by restricting such units to remain available at affordable housing costs to persons and families of low or moderate income and very low-income households, and by providing that the Affordability Restriction remain enforceable against the owner and the successors in the interest of the owner, thus, limiting who can own or occupy the Owner-Occupied Assisted Unit and the price for which an Owner-Occupied Assisted Unit may be sold; and

WHEREAS, when an Owner-Occupied Assisted Unit is sold, the Equity Share payment received by the City must be deposited into the Low and Moderate Income Housing Asset Fund and dedicated to affordable housing purposes; and

WHEREAS, given that each Owner-Occupied Assisted Unit sold would generate approximately \$55,000 in Equity Share payments to the City, the Department of Housing has determined that this amount is a relatively small amount of City’s overall funding for financing the construction, rehabilitation and preservation of affordable housing as well as the related costs of administration of same and as a result concluded that the proposed reduction in the Equity Share payments to the City will not have an adverse impact on funding City’s ability to continue financing affordable housing; and

WHEREAS, in furtherance of the City’s social and racial equity efforts and its policy work addressing the City’s affordable housing crisis, Housing staff recommends

reducing the City's 30% Equity Share by 50% for all 438 properties in the City's single-family portfolio's Homebuyer Program; and

WHEREAS, Community Redevelopment Law and California Health and Safety Code Section 33334.3(f)(1)(B), allows a change in the percentages of Equity Share between the selling owner-occupant and the City so long as the Equity Sharing is based on an "established Equity Sharing schedule that permits retention by the selling owner-occupant of a portion of those excess proceeds based on the length of the owner-occupant's occupancy"; and

WHEREAS, the City will work on all the properties within the single-family housing portfolio's First-Time Homebuyer Loan Program on a case-by-case basis, and will amend the homeowners' formula set forth in the Affordability Restrictions for calculating the City's Equity Share in order to reflect the reduction of in the City's Equity Share pursuant to the Community Redevelopment Law and California Health and Safety Code Section 33334.3(f)(1)(B) requirements;

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

- (1) The City Council hereby finds that the above recitals are true and correct.
- (2) Pursuant to Community Redevelopment Law and California Health and Safety Code Section 33334.3(f)(1)(B), as applicable, the reduction of the City's Equity Share payment from 30% to 15% for the City's single-family housing portfolio's First-Time Homebuyer Loan Program in accordance with applicable laws and funding source requirements is hereby authorized as set forth in the Memorandum from the Directors of Housing and Budget Departments dated March 10, 2025.

(3) The Housing Director, or his designee, is hereby authorized to renegotiate the Equity Sharing provision and negotiate and execute homebuyer loan documents and all other documents, including any amendments thereto, related to the City's single-family housing portfolio's First-Time Homebuyer Loan Program in accordance with applicable laws and funding source requirements.

ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk