CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Toni Taber, MMC City Clerk

SUBJECT: **SEE BELOW**

DATE: September 9, 2026

SUBJECT: Temporary Moratorium Related to Detention and Custodial Facility on Private Property

Recommendation

Adopt an interim ordinance to implement a temporary moratorium on the filing, acceptance, processing, or approval of all applications for the establishment, expansion, or change of use for detention and custodial facilities on private property, with certain exemptions.

PLEASE NOTE: APPROVAL OF THIS RESOLUTION REQUIRES AFFIRMATIVE VOTES OF NINE MEMBERS OF THE CITY COUNCIL. Cal. Gov. Code §65858(b).

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Mayor, Campos, Ortiz, Doan, and Candelas)

[Rules Committee referral 8/12/2026 - Item C.1]

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE

FROM: **Mayor Mahan**
Councilmember Campos
Councilmember Ortiz
Councilmember Doan
Councilmember Candelas

SUBJECT: **SEE BELOW**

DATE: August 12, 2026

Approved:

Date: August 5, 2026

SUBJECT: Temporary moratorium related to detention and custodial facility on private property

RECOMMENDATION:

Add to the City Council September 15, 2026 agenda consideration of the following:

1. Adoption of an interim ordinance to implement a 45-day temporary moratorium on the filing, acceptance, processing, or approvals of applications for the establishment, expansion, or change of use for detention and custodial facility on private property.
    a. A "detention and custodial facility" means a temporary or permanent building, structure, set of buildings, or portion thereof operated by a private or nongovernmental person or entity that would detain, confine, process, or house persons in custody.
    b. Excluded from the moratorium are:
        i. Any facility providing rehabilitative, counseling, treatment, mental health, educational, or medical services to a juvenile that is under the jurisdiction of the juvenile court.
        ii. Any facility providing evaluation or treatment services to a person who has been detained, or is subject to an order of commitment by a court.
        iii. Any facility providing educational, vocational, medical, or other ancillary services to an inmate in custody of, and under the direct supervision of, the State Department of Corrections and Rehabilitation or a county sheriff or other law enforcement agency.
        iv. A residential care facility licensed under state law.
        v. Any school facility used for the disciplinary detention of a pupil.

vi. Any facility used for the quarantine or isolation of persons for public health reasons under state law.
vii. Any facility for the purposes of execution of a punitive sentence imposed by a court.

BACKGROUND:

On June 10, 2026, Santa Clara County and the State of California filed a lawsuit relating to a potential ICE detention facility being constructed outside of Gilroy, CA. This lawsuit arises from the federal government leasing a 25-acre property in Santa Clara County. Blueprints of the development indicated DHS is developing the property into a space that can house up to 150 detainees. The concerns raised in the lawsuit include failure to:

- evaluate the environmental impact of the proposed project prior to taking action under the National Environmental Policy Act;
- area is zoned in an exclusive agricultural zoning district and not zoned for the proposed use; and
- cooperate with state and local governments in the development of these projects.

Santa Clara County expects this project to have a significant environmental impact, due to endangered species in the area and a documented history of hazardous materials around the property. The lawsuit seeks a court order to set aside the lease, declare the intended use of the property illegal, and to enjoin the federal government from continuing to develop the Holsclaw Property.

The proposed South County facility is immediately adjacent to San José's, and the City has a substantial interest in evaluating the potential downstream impacts that expanded detention and processing infrastructure may have on residents, public services, infrastructure, emergency response, public safety, access to essential City services, and the local economy. As the largest city in the region, San José may experience these impacts regardless of whether a facility is ultimately located within City limits.

Current and Immediate Threat to Public Health, Safety, and Welfare

More importantly, the City has not previously evaluated whether its zoning regulations adequately address detention, holding, or processing facilities or whether additional land use standards governing the location and operation of such facilities are appropriate. Given recent developments, the City has a current and immediate need to evaluate where such facilities should be sited; what potential impacts such facilities may have on public health, safety and welfare; and whether additional regulations are necessary to mitigate such impacts.

Jurisdictions across the country have adopted or are considering land use regulations, including temporary moratoriums, to provide time to evaluate whether existing zoning and development standards adequately address detention and custodial facilities and their potential impacts on surrounding communities.

Recent developments demonstrate that proposals for immigration detention, holding, or processing facilities are no longer hypothetical. The proposed federal immigration facility in unincorporated Santa Clara County, together with publicly reported efforts to identify additional

detention capacity elsewhere in the Bay Area and across the country, underscore the need for local governments to evaluate whether existing land use regulations adequately address these types of facilities.

Experiences in jurisdictions across the country demonstrate that proposals for detention, holding, and processing facilities may move forward with limited notice to local governments, leaving little opportunity to evaluate potential land use, environmental, infrastructure, public safety, and community impacts before significant project decisions have been made. San José has a legitimate interest in ensuring its existing regulations adequately address these uses before similar proposals arise within the City.

Without a temporary moratorium, applications for detention, holding, or processing facilities could proceed under existing regulations before the City has an opportunity to evaluate whether additional zoning standards, development requirements, or location-specific criteria are appropriate. The temporary moratorium would allow the City to evaluate potential environmental, infrastructure, transportation, public safety, land use compatibility, water and wastewater capacity, impacts on surrounding businesses and property, and other community impacts before considering such uses. Approving these uses before that evaluation is complete could result in development that is incompatible with surrounding land uses or infrastructure and could limit the City's ability to adopt appropriate standards to address future proposals. The proposed interim ordinance is intended to preserve the status quo while the City completes that evaluation.

For questions, please contact Vincent Rocha, Senior Policy Advisor to Mayor Matt Mahan, at (408)-535-4812.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.