

RESOLUTION NO. _____

ADOPT A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE RENAMING THE DOWNTOWN RESIDENTIAL HIGH-RISE INCENTIVE PROGRAM TO THE DOWNTOWN RESIDENTIAL INCENTIVE PROGRAM, EXPANDING THE PROGRAM TO INCLUDE APPROPRIATE COMMERCIAL-TO-RESIDENTIAL CONVERSION PROJECTS FOR MID-RISE AND HIGH-RISE BUILDINGS LOCATED IN THE DOWNTOWN PLANNED GROWTH AREA, AND REDUCING THE INCLUSIONARY HOUSING IN-LIEU FEE TO \$0 FOR ELIGIBLE CONVERSION PROJECTS THAT PROVIDE 5% OF THE RESIDENTIAL UNITS ON-SITE AT RENTS RESTRICTED TO NO MORE THAN 110% OF AREA MEDIAN INCOME

WHEREAS, in 2012, the City Council of the City of San José (“City”) established the Downtown Residential High-Rise Incentive Program to catalyze high-density residential development in the Downtown Planned Growth Area in support of job growth, transit use, and vibrant urban neighborhoods; and

WHEREAS, the Program has successfully facilitated the delivery of more than 1,200 residential units in Downtown San José, including projects such as The Grad, Miro, and The Fay, demonstrating the effectiveness of targeted financial incentives in advancing high-density residential development; and

WHEREAS, market conditions in Downtown San José have evolved in recent years, including increased office vacancy rates and underutilized commercial space, creating new opportunities to support housing production through adaptive reuse and commercial-to-residential conversion projects; and

WHEREAS, the City's 2025 Cost of Residential Development Study found that office-to-residential conversion projects face unique feasibility challenges and that targeted fee reductions and incentives may be necessary to enable such projects to proceed; and

WHEREAS, expanding the existing incentive program framework to include appropriate commercial-to-residential conversion projects for mid-rise and high-rise buildings located in the Downtown Planned Growth Area will promote housing production, Downtown activation, and economic revitalization; and

WHEREAS, the City Council desires to rename the Downtown Residential High-Rise Incentive Program as the Downtown Residential Incentive Program to more accurately reflect the Program's expanded scope and ongoing role in supporting residential development in Downtown San José; and

WHEREAS, the City Council further desires to reduce the Inclusionary Housing In-Lieu Fee to \$0 for eligible commercial-to-residential conversion projects that provide at least five percent (5%) of residential units on-site at rents restricted to no more than one hundred ten percent (110%) of Area Median Income, in order to address feasibility gaps while ensuring the provision of income-restricted housing; and

WHEREAS, eligibility requirements for conversion projects include: 1) located within the Downtown Planned Growth Area boundary; 2) constructed prior to 2021, excluding Class A office space; 3) include building characteristics supporting conversion as determined by the City's Planning, Building and Code Enforcement Department and the Fire Department; 4) creates a minimum 20 residential units above the ground floor; 5) excludes ground-floor retail space and second-floor occupied commercial space in mixed-use buildings;

6) building permit obtained by December 31, 2026; and 7) passes first inspection within 12 months of permit issuance; and

WHEREAS, the Downtown Residential Incentive Program continues to operate within the City and State's existing regulatory and policy framework governing development incentives and public subsidies, including applicable labor standards and accountability requirements; 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, according to the City's 2025 Cost of Residential Development Study dated November 13, 2025, by CSG Advisors and Economic & Planning Systems, Inc., the construction cost environment remains extremely challenging and, while the rate of escalation has stabilized, the elevated baseline pricing continues to create significant feasibility barriers for multifamily development, with direct construction costs now accounting for approximately 69% of total development costs; and

WHEREAS, without incentives, only lower-density townhomes and stacked flats show positive residual land values; and

WHEREAS, higher-density rental housing developments remain financially infeasible without incentives; and

WHEREAS, analysis indicates that fee and tax waivers can improve project economics by approximately \$4 million to \$16 million per development, often sufficient, when combined with modest rent growth, to achieve positive returns; and

WHEREAS, the study found that fee waivers may “tip the scales” toward feasibility when combined with modest market improvements; and

WHEREAS, targeted interventions like the Downtown Residential Incentive Program are essential to bridging the feasibility gap for housing production due to the combination of high construction costs, elevated interest rates and negative residual land values at a time when San José needs to accelerate production to meet its Regional Housing Needs Allocation goals; and

WHEREAS, City Council desires to adopt this resolution for the reasons set forth in the memorandum, dated January 5, 2026 for the January 27, 2026 City Council meeting;

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

1. The Downtown Residential High-Rise Incentive Program is hereby renamed the Downtown Residential Incentive Program (“Program”).

2. The Program is hereby expanded to include eligible commercial-to-residential conversion projects for mid-rise and high-rise buildings located within the Downtown Planned Growth Area, consistent with criteria and requirements for conversions established by the City.
3. Eligibility requirements for conversion projects include:
 - a. Located within the Downtown Planned Growth Area boundary;
 - b. Constructed prior to 2021, excluding Class A office space;
 - c. Include building characteristics supporting conversion as determined by the City's Planning, Building and Code Enforcement Department and the Fire Department;
 - d. Creates a minimum 20 residential units above the ground floor;
 - e. Excludes ground-floor retail space and second floor occupied commercial space in mixed-use buildings;
 - f. Building permit obtained by December 31, 2026; and
 - g. Passes first inspection within 12 months of permit issuance.
4. For eligible commercial-to-residential conversion projects under the Program that provide at least five percent (5%) of the residential units on-site at rents restricted to no more than one hundred ten percent (110%) of Area Median Income, the Inclusionary Housing In-Lieu Fee is reduced to \$0, subject to applicable law and administrative requirements.
5. Except as expressly modified by this resolution, all prior City Council actions, approvals, and requirements related to the Downtown Residential High-Rise Incentive Program shall remain in full force and effect.
6. City staff are authorized to implement the Program consistent with this resolution and to take all actions necessary or convenient to carry out its

purposes.

ADOPTED this _____ day of _____, 2026, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk