

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Christopher Burton
Jim Shannon

SUBJECT: Construction Tax Refund
for HSRE PMB San Jose,
LLC for the 1410 S. Bascom
Avenue Project

DATE: October 27, 2025

Approved



Date:

11/5/25

COUNCIL DISTRICT: 6

RECOMMENDATION

- (a) Approve the Development Services Claim For Refund of construction taxes in the amount off \$1,069,600 paid under the incorrect rate by HSRE-PMB San Jose, LLC, for a project located at 1410 S. Bascom Avenue.
- (b) Adopt the following 2025-2026 Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:
 - (1) Establish the Developer Refunds appropriation to the Department of Transportation in the amount of \$1,050,000; and
 - (2) Decrease the Ending Fund Balance by \$1,050,000.

SUMMARY AND OUTCOME

Approval of the recommendation in the memorandum will provide a refund to HSRE-PMB San Jose, LLC for a project located at 1410 South Bascom Avenue. In spring 2025, the City of San José (City) received \$1,050,000 in Building and Structure Tax permit tax receipts and \$19,600 in Strong Motion Instrumentation Program Assessment (SMIPA) taxes for a medical center, by HSRE-PMB San Jose, LLC. Based on further examination of Section 4.46.030A of the San José Municipal Code (Municipal Code), the City determined that the project was exempted from paying the Building and Structure Construction Tax and SMIPA tax.

BACKGROUND

On May 7, 2025, the County of Santa Clara, through the developer HSRE-PMB San Jose, LLC, paid \$1,050,000 in Building and Structure Construction Tax and \$19,600 in SMIPA tax (total of \$1,069,600) for a project located at 1410 South Bascom Avenue (project number 25-105887, "VHC Medical Center Finish Interior"). Construction taxes are determined through the building permit issuance process, based on the construction valuation of the project as well as the intended use of the building as a residential, commercial, or industrial designation. A medical center building falls under the commercial use designation, and the total tax owed for the project was calculated to be \$2,100,000 for Commercial, Residential, Mobile Home Park Construction Tax (CRMP), \$1,050,000 for Building and Structure Construction Tax, and \$19,600 for SMIPA tax. Proceeds from CRMP and Building and Structure Construction Tax support work within the Traffic Capital Program. SMIPA is a state tax collected by the City and then remitted to the state to fund the study of earthquakes.

At the time the invoices were provided, the City was informed that the medical office building had been leased to the County of Santa Clara as a multiservice center for human services, which would exempt the project from paying CRMP taxes per Municipal Code Section 4.47.084 – Exemption – Buildings constructed for lease to county for multiservice center purposes. After receiving a copy of the executed lease agreement, Section 4.47.084 of the Municipal Code was applied, resulting in a reduction of the CRMP tax to \$0.

Subsequently, the City was informed that the County of Santa Clara was funding the completion of the interior work for its use as a medical office building, and therefore Municipal Code Section 4.46.030A should apply. Section 4.46.030A exempts the Building and Structure Construction Tax and SMIPA tax for "the City of San Jose...any county, city and county...or any other governmental agency." While this information was being vetted, the applicant elected to pay the permit fees and remaining Building and Structure and SMIPA taxes to allow construction of the project to commence. Based on the information provided, staff determined that Section 4.46.030A of the Municipal Code should be applied, reducing both the Building and Structure and SMIPA taxes to \$0. According to Section 4.82.320 of the Municipal Code, a refund claim exceeding \$500,000 requires City Council approval.

ANALYSIS

The Building and Structure Construction, CRMP, and SMIPA taxes apply to all building permits, including both new construction and tenant improvements/finish interiors. Municipal Code Sections 4.46.030 and 4.47.080 state that the taxes imposed under Chapter 4.46 and 4.47 shall not apply to "the City of San Jose, the United States, the State of California, or any county or any other government agency." Since the County of

Santa Clara qualifies as a government agency, it is exempt from paying construction taxes on its projects. If these actions are approved, a total refund of \$1,069,600 will be issued to the party that made the initial payment in alignment with standard procedure.

EVALUATION AND FOLLOW-UP

With approval of the recommended action, the refund of construction taxes will be promptly processed. No follow-up actions with City Council are expected.

COST SUMMARY/IMPLICATIONS

The total refund is \$1,069,600, \$1,050,000 from the Building and Structure Construction Tax Fund and \$19,600 from SMIPA taxes. The recommended budget actions will appropriate \$1,050,000 from the Building and Structure Construction Tax Fund's ending fund balance to pay its portion of the refund. Because the SMIPA taxes collected are still sitting in a depositor account, the refund will be made directly from this account without any necessary budget actions.

BUDGET REFERENCE

Fund #	Appn. #	Appropriation Name	Total Appn.	Rec. Budget Action	2025-2027 Proposed Biennial Capital Budget Page*	Last Budget Action (Date, Ord. No.)
429	7732	Developer Refunds	\$0	\$1,050,000	N/A	N/A
429	8999	Unrestricted Ending Fund Balance	\$20,550,437	(\$1,050,000)	760	10/21/2025 31252

**The 2025-2027 Proposed Biennial Capital Budget was approved on June 10, 2025, and adopted on June 17, 2025, by the City Council.*

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, City Manager's Office of Economic Development and Cultural Affairs, Finance Department and the Department of Transportation.

HONORABLE MAYOR AND CITY COUNCIL

October 27, 2025

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PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the November 18, 2025 Council Meeting.

COMMISSION RECOMMENDATION AND INPUT

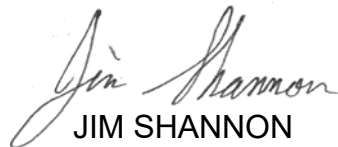
No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/

CHRISTOPHER BURTON
Director, Planning, Building, and
Code Enforcement Department

A handwritten signature in cursive script, reading "Jim Shannon".

JIM SHANNON
Budget Director

For questions, please contact Lisa Joiner, Deputy Director, Planning, Building, and Code Enforcement Department, at (408) 535-7757.