

RESOLUTION NO. _____

ADOPT A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE APPROVING THE TAX AND FEE WAIVER AND AUTHORIZING THE HOUSING DIRECTOR, OR HIS DESIGNEE, TO NEGOTIATE AND EXECUTE DOCUMENTS AND DOCUMENT AMENDMENTS RELATED TO IMPLEMENTING THE MULTIFAMILY HOUSING INCENTIVE PROGRAM, SUCH AS CONSTRUCTION PROGRESS AGREEMENTS

WHEREAS, on December 10, 2024, the City Council of the City of San José (“City”) established the Multifamily Housing Incentive Program (“MHIP”) to address stalled housing production by providing targeted incentives for high-density multifamily developments that have been unable to secure financing and begin construction due to challenging economic conditions, including elevated construction costs, high interest rates, and negative residual land values affecting housing feasibility in San José; and

WHEREAS, the City adopted MHIP, which extends the duration of and allows a reduction of the Inclusionary Housing Ordinance (“IHO”) in-lieu fee and expands eligibility to include Mixed Compliance projects outside of downtown high-rise developments; and

WHEREAS, this IHO in-lieu fee previously only applied to high-rise developments located downtown and certain construction taxes, including a 50% reduction to the Building and Structure (“B&S”) tax and the Commercial, Residential, Mobile Home Park (“CRMP”) tax for the first 1,500 units that obtained building permits by December 31, 2025, and a 25% reduction in the B&S construction tax for subsequent projects that obtain a City building permit after the 1,500 units, or on or after January 1, 2026; and

WHEREAS, on May 13, 2025, the City amended the MHIP to increase the number of residential units eligible for the 50% reduction in B&S and CRMP construction taxes from 1,500 units to 1,800 units for projects obtaining building permits by December 31, 2025; and

WHEREAS, on January 27, 2026, the City Council further amended MHIP to extend the Phase I benefit application deadline to February 28, 2027, and to increase the number of units eligible for the maximum tax reductions to 3,600 units. (The amended ordinance became effective on March 5, 2026.); and

WHEREAS, the El Paseo de Saratoga development (“El Paseo”), is located at 1777 Saratoga Avenue, and consists of 772 residential units across two buildings, including 398 units in a 12-story building located at 100 El Paseo de Saratoga and 374 units in a 10-story building located at 200 El Paseo de Saratoga; and

WHEREAS, under MHIP, the El Paseo qualifies for a 50% reduction in the Building and Structure Construction Tax and the Commercial, Residential, Mobile Home Park Construction Tax applicable to the residential portion of the development, resulting in a total tax reduction of ~~\$3,693,404~~~~\$2,425,988~~; and

WHEREAS, the developer of the El Paseo is not requesting a waiver of the IHO in-lieu fee under the MHIP and will provide 5% of units on-site with restricted rents affordable to households at or below 110% area median income and will pay the applicable Mixed Compliance In-Lieu fee; and

WHEREAS, the City’s construction taxes include the B&S and the CRMP, both of which are based on the construction valuation derived from the most current building valuation data table published by the International Code Council for the residential portion of developments. The B&S tax rate on residential building construction valuation is 1.54%, and the CRMP tax rate on residential building construction valuation is 2.42%, for a combined tax of 3.96%; and

WHEREAS, proceeds from these taxes are used to fund transportation capital improvement projects, which may include repairs and redevelopment of existing transportation-related projects and improvements, such as pavement maintenance, complete streets, pedestrian safety, and traffic calming projects; and

WHEREAS, the developer of the El Paseo development shall comply with the Inclusionary Housing Ordinance Mixed Compliance option by providing 5% of the units on-site as deed-restricted affordable housing units and pay the applicable Inclusionary Housing Ordinance in-lieu fee; and

WHEREAS, the El Paseo development must comply with its amended Inclusionary Housing Ordinance Affordable Housing Compliance Plan and record an Inclusionary Housing Agreement against the project site memorializing the requirements of the MHIP prior to issuance of building permits; and

WHEREAS, the City will execute agreements with the developer of the El Paseo development as required under San José Municipal Code Sections 4.46.039. ~~13 11~~ and 4.47.089 and monitor project construction to ensure the MHIP requirements are fulfilled; and

WHEREAS, the El Paseo must still comply with IHO requirements, including their Affordable Housing Compliance Plans and recordation of an Inclusionary Housing Agreement against the site prior to building permit issuance; and

WHEREAS, the project aligns with the City's Economic Development Strategy to spur the development of multifamily residential in identified growth areas within the City; and

WHEREAS, the Housing Director, or their designee, is authorized to negotiate and execute related construction progress agreements and other documents necessary to

implement the MHIP for the El Paseo supportive of a total tax reduction;

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

1. The City Council has reviewed and considered the entirety of the administrative record, including but not limited to, the Recitals set forth in this Resolution, City staff memorandum to the City Council, public testimony, and any and all information and documents provided to the City Council and public related to the adoption of this Resolution; and
2. The tax and fee reduction of up to \$3,693,404 ~~-\$2,425,988~~ for El Paseo located at 1777 Saratoga Avenue is approved consistent with the Multifamily Housing Incentive Program; and
3. The Housing Director, or his designee, is authorized to negotiate and execute agreements and amendment, addendums to agreements related to implementing the Multifamily Housing Incentive Program, including but not limited to construction progress agreements, affordable housing compliance plans, and inclusionary housing agreements;

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk