



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Erik L. Soliván  
Chris Burton  
John Ristow

**SUBJECT:** See Below

**DATE:** March 19, 2026

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Approved  Date: 3/20/26

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**COUNCIL DISTRICT: 1**

**SUBJECT: Multifamily Housing Incentive Program Residential Tax and Fee Waiver for the El Paseo de Saratoga Development Located at 1777 Saratoga Avenue**

**REASON FOR REPLACEMENT**

This memorandum clarifies the Inclusionary Housing Ordinance requirements applicable to the El Paseo de Saratoga development under the extended Multifamily Housing Incentive Program, and updates the Building and Structure and Commercial, Residential, Mobile Home Park construction tax reduction amounts based on the latest project square footage used by the Department of Planning, Building and Code Enforcement to calculate the project obligation, reflecting the residential area and residential parking eligible for reductions.

**RECOMMENDATION**

- (a) Conduct a public hearing to approve an economic development tax and fee waiver in connection with a reduction in construction taxes and a reduction of the Inclusionary Housing Ordinance in-lieu fee for El Paseo de Saratoga at 1777 Saratoga Avenue, which meets the requirements of the Multifamily Housing Incentive Program enacted by City Council on December 10, 2024 and extended on May 13, 2025 and January 27, 2026, in an amount of up to \$3,693,404 pursuant to California Government Code Section 53083 and Open Government Resolution No. RES2024-99 Section 2.3.2.6.C.
- (b) Adopt a resolution 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.

## **SUMMARY AND OUTCOME**

In compliance with the Multifamily Housing Incentive Program (MHIP), City Council approval of the staff recommendation will provide a total fee tax reduction in the amount of \$3,693,404 for the El Paseo de Saratoga (El Paseo) development. City Council approval will also allow the Housing Director, or his designee, to negotiate and execute construction progress agreements with the developer, SandHill Property Company.

## **BACKGROUND**

On December 10, 2024, City Council adopted the MHIP,<sup>1</sup> which allows a reduction of the Inclusionary Housing Ordinance (IHO) in-lieu fee and certain construction taxes. Specifically, MHIP allows 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 obtain a building permit by December 31, 2025, and a 25% reduction in the B&S to subsequent projects that obtain a City building permit after the 1,500 units, or on or after January 1, 2026. MHIP also extends the duration of the \$0 IHO in-lieu fee reduction and expands eligibility to include Mixed Compliance projects outside of downtown high-rise developments. Previously, this IHO in-lieu fee applied only to high-rise developments located downtown.

On May 13, 2025,<sup>2</sup> the MHIP ordinance was amended to increase the number of units that obtain a building permit by December 31, 2025, that are eligible for the 50% reduction to B&S and CRMP taxes from 1,500 to 1,800 units. The amended MHIP ordinance became effective on June 20, 2025.

The most recent amendment to the MHIP, including the increase in unit capacity, was considered and approved by City Council on January 27, 2026. At that meeting, City Council approved the staff recommendation 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.

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<sup>1</sup> File: 24-2305, Item #: 8.2, Meeting Date: December 10, 2024, Item Title: Multifamily Housing Incentive Program and North San José Park Fee Realignment, Web Link: <https://sanjose.legistar.com/View.ashx?M=F&ID=13583575&GUID=F101D3D4-D65C-407D-9B6C-234BDE8EB26A>

<sup>2</sup> File: 25-503, Item #: 8.3, Meeting Date: May 13, 2025, Item Title: Public Hearing for Amendments to the Multifamily Housing Incentive Program, Web Link: <https://sanjose.legistar.com/View.ashx?M=F&ID=14145280&GUID=AA00F98A-07E5-4ACA-BC41-C3B11D307CB4>

## **ANALYSIS**

The El Paseo development must comply with its amended IHO Affordable Housing Compliance Plan and record an Inclusionary Housing Agreement against the site, memorializing the requirements under the MHIP's IHO in-lieu fee reduction prior to building permit issuance. Staff will also execute an agreement with the developer to ensure the additional requirements of the tax reduction are met.

### ***El Paseo de Saratoga Development Description***

The residential component of the El Paseo development comprises 772 units across two buildings. Building 1, located at 100 El Paseo de Saratoga, is a 12-story structure containing 398 residential units. Building 2, located at 200 El Paseo de Saratoga, is a 10-story structure containing 374 residential units.

### ***Construction Taxes***

The City of San José's (City) 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%. 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. Table 1 provides an overview of the construction taxes for the development.

**Table 1 – Construction Tax Overview**

<b>Development</b>	<b>Standard B&amp;S and CRMP Construction Taxes</b>	<b>50% Tax Reduction<sup>3</sup></b>	<b>B&amp;S and CRMP Taxes to be Received</b>
<b>El Paseo de Saratoga</b>	<b>\$7,386,808</b>	<b>\$3,693,404</b>	<b>\$3,693,404</b>

### ***Inclusionary Housing Ordinance***

In 2010, City Council adopted the IHO, which requires all residential developers constructing new or modified rental or for-sale residential units to comply with a base requirement of 15% on-site affordable housing units within the development. Other

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<sup>3</sup> Under the MHIP, the 50% reduction to the B&S construction tax and the 50% reduction to the CRMP construction tax is only applicable to the residential portion of B&S and CRMP construction taxes.

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compliance options are also allowed under the IHO, at the developer's election. The existing IHO Mixed Compliance option allows developers to pay a reduced in-lieu fee and provide 5% of their total units as new restricted affordable housing.

The IHO in-lieu fee methodology is based on a development's net residential square footage calculation. The current fiscal year fee for Mixed Compliance properties providing 5% of units with restricted rents affordable to households at or below 110% area median income is \$21.71 per net residential square foot for developments located in strong market areas.<sup>4</sup> Table 2 provides a summary of the projected total IHO in-lieu fee waived for the El Paseo development.

**Table 2 – Estimated IHO In-Lieu Fees**

Development	Market Area	FY 2025-2026 IHO In-Lieu Fee Rate for Mixed Compliance	Net Residential Square Footage	IHO In-Lieu Fee Estimate
El Paseo de Saratoga	Strong Market	\$21.71	641,018	\$13,916,500

The developer of the El Paseo development is **not** requesting a waiver of the IHO in-lieu fee under the MHIP. The developer 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.

The in-lieu fee paid will be a minimum contribution paid under San José Municipal Code 5.08.590(c) to the El Cathedral 100% affordable housing project.

Table 3 provides a summary of the total proposed tax and fee waiver for the El Paseo development.

**Table 3 – Proposed Tax and Fee Waiver**

IHO In-Lieu Fee Waiver	N/A
50% Reduction of B&S and CRMP Construction Taxes on Developments' Residential Portion	\$3,693,404
<b>Total Tax Reduction and Fee Waiver</b>	<b>\$3,693,404</b>

<sup>4</sup> "Strong market area" means a market area or other geographical area designated by or pursuant to a City Council resolution or policy based on findings, including findings regarding residential building activity levels for market-rate housing.

### ***Multifamily Housing Incentive Program Implementation Progress***

Since the program’s inception, five projects totaling 1,444 units have begun construction (see Table 4).

Beyond the direct housing production, the four market-rate projects are generating substantial community benefits for San José. The construction phase alone is creating over 1,300 full-time construction jobs, providing critical employment opportunities in the building trades. Once completed, these projects will generate increased annual property tax revenue, supporting essential City services. Additionally, by focusing development on urban infill locations near transit and existing infrastructure, these projects advance the City’s Climate Smart San José goals by reducing vehicle miles traveled and minimizing sprawl.

**Table 4 – MHIP Implementation Progress**

<b>Development</b>	<b>Market-Rate Units</b>	<b>Affordable Units</b>	<b>Total Units</b>
<b>905 North Capitol Avenue</b>	328	17	345
<b>The Aquino at 498 West San Carlos Street</b>	264	14	278
<b>Santana Row Lot 12 at 358 Hatton Street</b>	245	13	258
<b>0 Seely Building A</b>	377	20	397
<b>Martha Gardens</b>	2	164	166
<b>El Paseo de Saratoga*</b>	733	39	772
<b>Total</b>	<b>1,949</b>	<b>267</b>	<b>2,216</b>

*\*Development discussed in this memorandum.*

### **EVALUATION AND FOLLOW-UP**

Staff will execute agreements with the developer of the El Paseo development as required under San José Municipal Code Sections 4.46.039.11 and 4.47.089 and monitor project construction to ensure the MHIP requirements are fulfilled. The development 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.

### **FISCAL IMPACTS**

The project aligns with the City’s Economic Development Strategy to spur the development of multifamily residential in identified growth areas within the City.

Table 5 addresses the requirements set forth in the City’s Resolution No. RES2024-99 for the publication of information related to an economic development waiver of more than \$1,000,000.

**Table 5 – City of San José Cost/Benefit Evaluation**

<p><b>a) Accountability</b></p>	<p>The MHIP suspends 50% of construction taxes for eligible developments and allows for payment of taxes to be delayed until the issuance of the first Certificate of Occupancy, and an IHO in-lieu fee reduction to \$0 for projects meeting certain conditions.</p>
<p><b>b) Net fiscal impact</b></p>	<p>The project is estimated to generate one-time revenue of \$3,693,404 in construction taxes. The construction tax forgone revenue is \$3,693,404. The developer is <u>not</u> requesting a waiver of the IHO in-lieu fee and will pay the applicable Mixed Compliance in-lieu fee in accordance with the Inclusionary Housing Ordinance.</p>
<p><b>c) Net job impact</b></p>	<p>Based on estimates from the developer, the El Paseo development will create approximately 726 full-time jobs, 65% of these construction jobs will generate an annual salary above \$80,000, 20% will generate an annual salary between \$60,000 and \$80,000, 10% of jobs will generate an annual salary between \$40,000 and \$60,000, 5% of jobs will generate an annual salary between \$20,000 and \$40,000. The recipient will provide health insurance to all employees.</p>
<p><b>d) Housing impact</b></p>	<p>The El Paseo development will deliver 733 new market-rate housing units, and 5% or 39 moderate-income units with a maximum price at or below 110% area median income. Based on the reported net job impact above, up to 110 extremely low-income housing units may be required for employees hired to implement the project.</p>
<p><b>e) Source of funds</b></p>	<p>The program does not provide funds directly to the projects. It is a suspension of 50% of construction taxes. The project is estimated to generate one-time revenue of \$3,693,404 in construction tax revenue.</p>
<p><b>f) Neighborhood impacts</b></p>	<p>No significant impacts are anticipated on traffic or public infrastructure, given that funding is being transferred to the traffic capital fund to mitigate the one-time revenue reduction.</p>

Table 6 addresses the requirements set forth in the State of California Assembly Bill 562 (Government Code 53083) for publication of information related to an economic development subsidy and a public hearing.

**Table 6 – State of California Cost/Benefit Evaluation**

<b>a) Name/address of benefiting business entity</b>	El Paseo Property Owner, LLC 2600 El Camino Real, Ste 410, Palo Alto, CA 93406
<b>b) Start and end dates for the subsidy</b>	Projects are eligible for the MHIP subsidy after the issuance of building permits prior to February 28, 2027. The subsidy will become finalized upon payment of taxes prior to the issuance of the first Certificate of Occupancy, subject to conditions therein.
<b>c) Description of the subsidy, estimated total amount of expenditure of public funds or revenue lost</b>	The City shall suspend 50% of construction taxes on the developments constructed and shall allow payment of the taxes to be delayed until the issuance of the Certificate of Occupancy. The estimated economic development subsidy is \$3,693,404.
<b>d) Statement of public purpose</b>	To encourage the development of multifamily residential developments, spurring increased retail amenities, attracting more employers, increasing transit use, and improving public life in San José. The aggregation of these factors will increase the economic vitality of the City and will translate to increased property tax and sales tax revenue for the City.
<b>e) Projected tax revenue</b>	The project is estimated to generate one-time revenue of \$3,693,404 in construction taxes.
<b>f) Estimated number of jobs created, broken down by full time, part-time and temporary positions</b>	Based on estimates from the developer, the El Paseo development will create approximately 726 full-time jobs.

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

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## **PUBLIC OUTREACH**

This memorandum will be posted on the City Council Agenda website for the March 24, 2026 City Council meeting.

## **BOARD, COMMISSION, COMMITTEE RECOMMENDATION AND INPUT**

No board, commission, or committee recommendation or input is associated with this action.

## **CEQA**

Addendum to the 1312 El Paseo and 1777 Saratoga Avenue Mixed-Use Village Project Final Environmental Impact Report (Resolution No. 80605), File Nos. PDA20-006-01 and ER23-267).

## **PUBLIC SUBSIDY REPORTING**

This item includes a public subsidy as defined in the City's Open Government Resolution section 2.2.10 and is in the amount of \$1,000,000 or more. An informational memorandum, as described in Open Government Resolution section 2.3.2.6.C, will be released at least 28 calendar days prior to the City Council meeting at which the subsidy will be considered. The Acting Director of the City Manager's Office of Economic Development and Cultural Affairs has been informed of this subsidy to ensure that it is tracked appropriately.

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For questions, please contact Banu San, Deputy Director, Housing Department, at [Banu.San@sanjoseca.gov](mailto:Banu.San@sanjoseca.gov).