CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Erik L. Soliván

SUBJECT: **See Below**

DATE: May 15, 2025

Approved

Date: 5/15/2025

INFORMATION

SUBJECT: **Public Notice of the Proposed Multifamily Housing Incentive Program Tax and Fee Waiver for the Santana Row Lot 12 Development Located at 358 Hatton Street at the June 17, 2025, City Council Meeting**

This information memorandum provides notice of an upcoming City Council action related to waiver request for the Santana Row Lot 12 development located at 358 Hatton Street.

The attached memorandum to the City Council provides a staff recommendation to approve a Multifamily Housing Incentive Program waiver for the Santana Row Lot 12 residential development located at 358 Hatton Street, pursuant to City Council adopted Resolution No. 77135. Resolution No. 77135 requires that a public hearing be conducted for any waiver over $1,000,000 and that notice of the public hearing be posted on the City's website 28 calendar days in advance of the City Council meeting at which a waiver is to be considered. This waiver is scheduled to be considered at the June 17, 2025, City Council meeting.

Please see the Attachment – June 17, 2025, City Council memorandum, which provides additional information regarding the waiver request.

/s/
Erik L. Soliván
Housing Director

For questions, please contact Banu San, Deputy Director, Housing Department, at Banu.San@sanjoseca.gov.

Attachment: June 17, 2025 City Council Memorandum

Attachment

COUNCIL AGENDA: 6/17/25
FILE:
ITEM:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Erik L. Soliván
Chris Burton
John Ristow
Jim Shannon

SUBJECT: **See Below**

DATE: May 15, 2025

Approved Date: 5/15/2025

COUNCIL DISTRICT: 1

SUBJECT: **Approval of a Multifamily Housing Incentive Program Residential Tax and Fee Waiver for the Santana Row Lot 12 Development at 358 Hatton Street**

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, and a refund of $3,435,672 in Affordable Housing Impact Fee payments for the Santana Row Lot 12 development located at 358 Hatton Street, which meets the requirements of the Multifamily Housing Incentive Program enacted and amended by the City Council on May 13, 2025, in an amount of up to $7,913,568 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.

(c) Adopt the following 2024-2025 Appropriation Ordinance amendments in the Affordable Housing Impact Fee Fund:

(1) Decrease the Housing Project Reserve appropriation by $3,435,672; and

(2) Increase the Housing Loans and Grants appropriation to the Housing Department by $3,435,672.

SUMMARY AND OUTCOME

In compliance with the Multifamily Housing Incentive Program (MHIP), City Council approval of the recommendations in this memorandum would provide a total fee and tax reduction and Inclusionary Housing Ordinance (IHO) fee waivers in the amounts of $4,477,896 and a refund of $3,435,672 in Affordable Housing Impact Fee (AHIF) payments for the Santana Row Lot 12 development located at 358 Hatton Street. City Council approval will also allow the Housing Director, or his designee, to negotiate and execute documents and document amendments related to implementing the MHIP, including construction progress agreements, with the developer, Federal Realty, of the Santana Row Lot 12 development.

BACKGROUND

On December 10, 2024, City Council adopted the MHIP,[1] which allows a reduction of the 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 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,[2] 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 will become effective on June 20, 2025. During the same item on the May 13, 2025 City Council meeting, City Council also approved adding the Santana Row Lot 12 development as an eligible project under MHIP.

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[1] 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

[2] 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 Santana Row Lot 12 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.

Santana Row Lot 12 Development Description

The Santana Row Lot 12 development is located on a 29.4-gross acre site. The development will consist of a five-and-a-half story building, one below and one above grade level of parking, and up to 258 units, including 13 restricted affordable units with maximum rents at 100% area median income with a mix of studios, one-bedroom, and two-bedroom units.

Construction Taxes

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%. 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

Development	Standard B&S and CRMP Construction Taxes	50% Tax Reduction[3]	B&S and CRMP Taxes to be Received
Santana Row Lot 12	$1,065,564	$532,782	$532,782

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

[3] 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.

requirement of 15% on-site affordable housing units within the development. Other 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 100% area median income is $21.74 per net residential square foot for developments located in strong market areas.[4] **Table 2** provides a summary of the projected total IHO in-lieu fee waived for the Santana Row Lot 12 development.

Table 2 – Waived IHO In-Lieu Fees

Development	Market Area	Fiscal Year 2024-2025 IHO In-Lieu Fee Rate for Mixed Compliance	Net Residential Square Footage	Waived IHO In-Lieu Fee
Santana Row Lot 12	Strong Market	$21.74	181,468	$3,945,114

AHIF Fee Refund

The Santana Row Lot 12 development will join the MHIP by being reimbursed for the AHIF fees previously paid to the City by the Santana Row Lot 12 developer, Federal Realty.[5] On May 13, 2025,[6] City Council authorized the Housing Director to proceed with issuing this AHIF reimbursement to Federal Realty, which is subject to a 28-day public notice requirement[7] prior to executing the formal budget action recommended in this memorandum. Refunding the AHIF fees to the Santana Row Lot 12 developer, in combination with MHIP benefits, catalyzes the project financing, allowing the

[4] "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.
[5] In December 2022, the Santana Row Lot 12 developer, Federal Realty, paid the Housing Department $3,435,672 in AHIF fees under the AHIF program requirements.
[6] 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
[7] This advance public notice requirement is satisfied by the public subsidy informational memorandum required to be released at least 28 calendar days prior to the City Council meeting at which the subsidy will be considered. The informational memorandum announcing this public subsidy as published by May 20, 2025, for the June 17, 2025, City Council meeting is available at the following web link: https://www.sanjoseca.gov/your-government/appointees/city-clerk/information-memos

construction to move forward. This action advances the program outcomes of increasing housing production in the City's strategic growth areas.

Table 3 provides a summary of the total proposed tax and fee waiver for the Santana Row Lot 12 development.

Table 3 – Proposed Tax and Fee Waiver

50% Reduction of B&S and CRMP Construction Taxes on Developments' Residential Portion	$532,782
IHO In-Lieu Fee Waiver	$3,945,114
AHIF Refund	$3,435,672
Total Tax Reduction and Fee Waiver	$7,913,568

Multifamily Housing Incentive Program Implementation Progress

In December 2024, City Council approved the MHIP and directed staff to provide an update on the progress of implementing this program. On May 13, 2025, the City Council approved an amendment to MHIP to change, the first 1,500 units of a development that obtain building permits before December 31, 2025, can receive a 50% reduction of the B&S tax and a 50% reduction of the CRMP tax, to the first 1,800 units. **Table 4** provides a summary of units that City Council has authorized under the MHIP to-date, including the developments that are proposed for the MHIP residential tax and fee waiver in this memorandum.

Table 4 – MHIP Implementation Progress

Development	Market-Rate Units	Affordable Units	Total Units
905 North Capitol Avenue	328	17	345
The Aquino at 498 West San Carlos Street	264	14	278
Santana Row Lot 12 at 358 Hatton Street*	245	13	258
0 Seely Building A**	377	20	397
Total	**1,214**	**64**	**1,278**

**Development discussed in this memorandum.*
***Scheduled as a separate City Council item on June 17, 2025.*

EVALUATION AND FOLLOW-UP

Staff will execute agreements with the developer of the Santana Row Lot 12 development as required under the 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. Staff will not execute any agreements with the developer until the ordinance amendment takes effect on June 20, 2025.

COST SUMMARY/IMPLICATIONS

The actions recommended in this memorandum would refund the Santana Row Lot 12 developer, Federal Realty, $3,435,672 from the AHIF Fund, which will be funded by reallocating $3,435,672 from the Housing Project Reserve to the Housing Loans and Grants appropriation. The payment will be remitted once the developer executes a new Inclusionary Affordable Housing Compliance Plan.

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

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

a) Accountability	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.
b) Net fiscal impact	The project is estimated to generate one-time revenue of $532,782 in construction taxes. The construction tax forgone revenue is $532,782. The IHO in-lieu fee forgone revenue is $3,945,114. The project will also receive a refund of previously paid AHIF fees in the amount of $3,435,672.

c) Net job impact	Based on estimates from the developer, the Santana Row Lot 12 development will create approximately 323 full-time jobs, 51 part-time jobs, and 5 temporary positions. 13% of these construction jobs will generate an annual salary above $80,000, 25% will generate an annual salary between $60,000 and $80,000, 46% of jobs will generate an annual salary between $40,000 and $60,000, 9% of jobs will generate an annual salary between $20,000 and $40,000, and the remaining 7% of jobs will generate an annual salary of up to $20,000. The recipient will provide health insurance to all employees.
d) Housing impact	The Santana Row Lot 12 development will deliver 245 new market-rate (above 120% area median income) housing units, and 5% or 17 moderate-income units with a maximum price at or below 100% area median income. Based on the reported net job impact above, up to 233 extremely low-income housing units may be required for employees hired to implement the project.
e) Source of funds	The program does not provide funds directly to the projects. It is a suspension of 50% of construction taxes and a reduction to $0 of the IHO in-lieu fee. The project is estimated to generate one-time revenue of $532,782 across multiple funds.
f) Neighborhood impacts	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.

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

a) Name/address of benefiting business entity	**Lot 12:** Street Retail, LLC
b) Start and end dates for the subsidy	Projects are eligible for the MHIP subsidy after the issuance of building permits prior to December 31, 2025. The subsidy will become finalized upon payment of taxes prior to the issuance of the first Certificate of Occupancy, subject to conditions therein.
c) Description of the subsidy, estimated total amount of expenditure of public funds or revenue lost	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 City shall also provide a reduction to $0 for the IHO in-lieu fee. The estimated economic development subsidy is $7,913,538.
d) Statement of public purpose	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.
e) Projected tax revenue	The project is estimated to generate one-time revenue of $532,782 in construction taxes.
f) Estimated number of jobs created, broken down by full time, part-time and temporary positions	Based on estimates from the developer, the Santana Row Lot 12 development will create approximately 323 full-time jobs, 51 part-time jobs, and five temporary positions. 13% of these construction jobs will generate an annual salary above $80,000, 25% will generate an annual salary between $60,000 and $80,000, 46% of jobs will generate an annual salary between $40,000 and $60,000, 9% of jobs will generate an annual salary between $20,000 and $40,000, and the remaining 7% of jobs will generate an annual salary of up to $20,000. The recipient will provide health insurance to all employees.

BUDGET REFERENCE

The table below identifies the fund and appropriations recommended to be modified with this memorandum.

Fund #	Appn. #	Appn Name	Total Appn	Rec. Budget Action	Amount for Payment	2024-2025 Adopted Operating Page	Last Budget Action (Date, Ord. No.)
452	8437	Housing Project Reserve	$5,000,000	($3,435,672)	$0	919	10/22/2024 31133
452	0070	Housing Loans and Grants	$2,958,000	$3,435,672	$3,435,672	919	10/22/2024 31133

COORDINATION

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

PUBLIC OUTREACH

The memorandum will be posted on the City’s Council Agenda website for the June 17, 2025, City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation is associated with this action.

CEQA

Santana Row Lot 12: Determination of Consistency with the Santana Row Expansion Project Environmental Impact Report (Resolution No. 77532, File No. PD15-066) certified September 22, 2015, for the Santana Row Lot 12 Permit Extension File Nos. PDA15-066-02 and ER24-047.

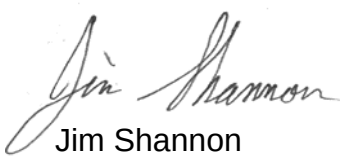
PUBLIC SUBSIDY REPORTING

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 June 17, 2025 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.

/s/
Erik L. Soliván
Housing Director

/s/
Chris Burton
Planning, Building and
Code Enforcement Director

/s/
John Ristow
Transportation Director


Jim Shannon
Budget Director

The principal author of this memorandum is Shelsy Bass, Interim Housing Policy and Planning Administrator, Housing Department. For questions, please contact Banu San, Deputy Director, Housing Department, at Banu.San@sanjoseca.gov.