



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann
City Attorney

SUBJECT: SEE BELOW

DATE: 6/17/2024

SUPPLEMENTAL

**SUBJECT: DOWNTOWN RESIDENTIAL HIGH-RISE INCENTIVE PROGRAM
EXTENSION**

REASON FOR SUPPLEMENTAL

This Supplemental Memorandum is intended to explain the two additional recommendations (e) and (f), listed below, added by the City Attorney's Office and approved by the Rules Committee on June 12, 2024.

- (e) Adopt a resolution amending the 2024-2025 Schedule of Fees and Charges (Resolution No. 72737, as amended) to revise the Rental Inclusionary In-Lieu Fee for Qualifying Downtown High-Rise Rental Developments, pursuant to Resolution No. 80766 as amended by the resolution proposed under part (a) of the staff memorandum.
- (f) Approve an uncodified ordinance amending the 2024-2025 Schedule of Fees and Charges to revise the Rental Inclusionary In-Lieu Fee for Qualifying Downtown High-Rise Rental Developments, as specified in the resolution.

BACKGROUND

On November 15, 2022, the City Council approved Resolution Nos. 80766 and 80767 updating the Downtown Residential High Rise Incentive Program ("Incentive Program") and the FY 22-23 Schedule of Fees and Charges ("22-23 Schedule"). The 22-23 Schedule listed under Section 12.026 the fee reduction to \$0 for residential projects subject to the Inclusionary Housing Ordinance qualifying under the Incentive Program.

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On June 11, 2024, the City Council unanimously approved the Schedule of Fees and Charges for Fiscal Year 2024-2025 ("24-25 Schedule"). The 24-25 Schedule includes the existing Incentive Program that reduces the Rental Inclusionary Housing In-Lieu Fee to \$0 for qualifying projects under the Incentive Program. Since the City Council is considering extending the Incentive Program after approving the 24-25 schedule, any changes approved must accordingly be updated in the 24-25 Schedule.

ANALYSIS

The 24-25 Schedule approved on June 11, 2024 contains the current Incentive Program requirements:

Description	Fee
Fee for qualifying Downtown High Rise Rental Developments, pursuant to Resolution No. 80766, the Inclusionary Housing Guidelines, and San José Municipal Code Section 5.08.520.D., that obtain all Certificates of Occupancy before June 30, 2029 shall be as follows:	
Building permit by June 30, 2025 and Certificates of Occupancy before June 30, 2029	FY24-25 \$0

The City Council is considering an extension to the Incentive Program impacting the Inclusionary Housing In-Lieu Fees for Downtown High Rise Rental Developments. The current proposal would extend the deadline to obtain a building permit to December 31, 2025 and also require that the project pass its first inspection within 12 months of obtaining a building permit. These changes, if approved, would alter the current requirements set forth in the 24-25 Schedule.

Any updates the City Council approves to modify or extend the Incentive Program that impacts the Inclusionary Housing In-Lieu Fee must be updated in the 24-25 Schedule. Accordingly, recommendations (e) and (f) were included to amend the 24-25 Schedule of Fees and Charges to account for any changes City Council approves extending the Incentive Program.

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COORDINATION

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

NORA FRIMANN
City Attorney

By /s/
Christopher Alexander
Sr. Deputy City Attorney

cc: Jennifer Maguire
Jim Shannon

For questions please contact Nora Frimann, City Attorney, at (408) 535-1900.