



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand  
Julia H. Cooper

**SUBJECT:** SEE BELOW

**DATE:** November 30, 2021

Approved

Date 12/02/21

**COUNCIL DISTRICT: 6**

**SUBJECT: APPROVAL OF THE ISSUANCE OF TAX-EXEMPT MULTIFAMILY HOUSING REVENUE NOTES AND THE LOAN OF THE PROCEEDS THEREOF FOR THE MARIPOSA PLACE AFFORDABLE HOUSING DEVELOPMENT, LOCATED AT 750 WEST SAN CARLOS STREET, AND APPROVING RELATED DOCUMENTS**

## RECOMMENDATION

Adopt a resolution:

- (a) Authorizing the issuance of a tax-exempt multifamily housing revenue notes designated as “City of San José, California Multifamily Housing Revenue Note (Mariposa Place), Series 2021E-1 (Tax-Exempt)” in a principal amount not to exceed \$31,341,010 (the “2021E-1 Note”) and a taxable multifamily housing revenue note designated as “City of San José, California Multifamily Housing Revenue Note (Mariposa Place), Series 2021E-2 (Taxable)” in a principal amount not to exceed \$6,000,000 (the “2021E-2 Note”) (together with the 2021E-1 Note, the “2021E Notes”);
- (b) Approving the loan proceeds of the 2021E Notes to San Jose W. San Carlos LP, a California limited partnership, an affiliate of developer and project sponsor Danco Communities, a California corporation, to finance the construction and development of an 80-unit multifamily development known as Mariposa Place located at 750 West San Carlos Street in San José (the “Development”);
- (c) Approving in substantially final form the Bank Loan Agreement, the Borrower Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, and related documents (collectively, the “2021E Note Documents”);

- (d) Authorizing and directing the City Manager, Director of Housing, Director of Finance, Assistant Director of Finance, Deputy Director – Debt & Treasury Management or their designees, to execute and deliver the 2021E Note Documents together with any documents ancillary to the 2021E Note Documents; and
- (e) Approving the payment of the annual Regulatory Agreement monitoring fee of approximately \$39,176 in two parts: (i) \$7,500 to be paid on par with the Bond debt service and (ii) the remaining amount of the fee, approximately \$31,676, to be paid as a permitted expense after debt service.

### **OUTCOME**

Approval of the recommended actions will enable the issuance of multifamily housing revenue notes to finance a portion of the costs to construct the Development, an 80-unit permanent supportive housing facility providing housing for homeless individuals and families, with 40 apartments serving those at risk for homelessness, 39 rapid rehousing units for homeless households and families and one manager’s unit, and will remain affordable for a period of at least 55 years following completion.

The Development will provide residents with current maximum annual incomes between 25% and 60% of area median income (“AMI”) housing at affordable rent in accordance with California Health and Safety Code Section 50053, the City’s Regulatory Agreement and Declaration of Restrictive Covenants and the County of Santa Clara’s regulatory agreement. Forty (40) of the units will be supported by Project-Based Vouchers for at least 20 years. The Development will be subject to Low-Income Housing Tax Credit restrictions imposed by the California Tax Credit Allocation Commission (“CTCAC”). The County will also provide funding subject to affordability restrictions.

### **EXECUTIVE SUMMARY**

In accordance with the City’s Policy for Issuance of Multifamily Housing Revenue Bonds, Danco Communities, a California corporation (the “Developer”), has requested that the City issue a tax-exempt multifamily housing revenue note in an amount not to exceed \$31,341,010 (the “2021E-1 Note”) and a taxable multifamily housing revenue note in an amount not to exceed \$6,000,000 (the “2021E-2 Note”)(collectively the “2021E Notes”). The 2021E Notes will be purchased by Pacific Western Bank.

The proceeds of the 2021E Notes will be loaned to San Jose W. San Carlos LP, a California limited partnership (the “Borrower”) formed by the Developer. The Borrower will use these proceeds and other funds to finance the construction of the Development, an 80-unit rental housing project to be known as Mariposa Place.

The 2021E Notes will not be paid from or secured by the general taxing power of the City or any other City asset.

**BACKGROUND**

**Borrower.** The Borrower is a California limited partnership consisting of the following entities:

- **Administrative General Partner:** San Jose W. San Carlos LLC, a California limited liability company
- **Managing General Partner:** Community Revitalization and Development Corporation, a California nonprofit public benefit corporation
- **Developer:** Danco Communities, a California corporation
- **Limited Partner:** Raymond James California Opportunities Fund XI LLC

The Developer has requested that the City issue the 2021E Notes for the purpose of lending the proceeds thereof to the Borrower. The proceeds of the 2021E Notes, together with other funds, will be used by the Borrower to finance the construction of the Development.

**Development Overview.** The Development involves the construction of (a) 57 one-bedroom apartments, (b) 22 two-bedroom apartments, and (c) one unrestricted two-bedroom manager’s unit. The unit mix and affordability levels by Area Median Income (AMI) will be as follows:

UNIT SIZE	UP TO 25% AMI			UP TO 50% AMI			UP TO 60% AMI			TOTAL
	Units	Max Income**	Rent Limit	Units	Max Income**	Rent Limit	Units	Max Income**	Rent Limit	
<b>One-Bedroom</b>	28	\$33,150	\$756	15	\$66,300	\$1,512	14	\$79,560	\$1,815	<b>57</b>
<b>Two-Bedroom</b>	12	\$37,300	\$851	5	\$74,600	\$1,702	5	\$89,520	\$2,043	<b>22</b>
<b>Manager's Unit</b>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	<b>1*</b>
<b>Total</b>	<b>40</b>			<b>20</b>			<b>19</b>			<b>80</b>

\*Unrestricted manager's unit

\*\*California Tax Allocation Committee (CTAC) income limits based on HCD occupancy guidelines of one person per bedroom, plus one

Forty (40) units will be supported by Project-Based Vouchers (“PBVs”) for at least 20 years. An Agreement to enter into a Housing Assistance Payment (“AHAP”) contract will be provided with respect to these 40 units prior to the 2021E Notes closing. Supportive services will be provided to these households by the Borrower.

The Development will be constructed on an existing 0.41 acre parcel, with no requirements for any parcel merging or subdivision. The property has one decrepit, burned-down building which will be demolished at the time of construction.

The Development will contain two levels of concrete building with an additional five floors of wood-framed construction above. The building is served by an elevator and is accessed toward the front of the building. The ground floor includes a lobby, bike storage for 30 bikes, mailbox room, security office, trash room, fire riser room, fire alarm panel room, mechanical room, electrical room, and a bed bug treatment room. The ground floor also includes 27 parking spaces for cars, including two accessible parking spaces, and motorcycle parking. There are two stairwells, one at the front of the building and one at the back.

The second floor includes 16 dwelling units including 15 one-bedroom units, and 1 two-bedroom unit. The third through sixth floors each have 14 dwelling units, including 9 one-bedroom units, and 5 two-bedroom units. The seventh floor includes 8 dwelling units including 6 one-bedroom units, and 2 two-bedroom units with one of the two-bedroom units being a manager's unit. In addition, the seventh floor has bike storage for 20 bikes, a group meeting room, service coordination room, manager's office, fitness center, common room, recreation room, and a roof terrace. Common spaces on all floors include a laundry room with accessible washer and dryer, a trash chute, a recycling chute and a compost bin.

The Development will be subject to Low-Income Housing Tax Credit restrictions. The Housing Authority of the County of Santa Clara will provide PBVs for the 40 units which will be permanent supportive housing units under a County supportive/homeless housing initiative. The County will also provide funding subject to affordability restrictions.

**Construction Schedule.** Construction is expected to commence in February 2022 and continue through February 2024, with 100% occupancy targeted for November 2024. Some demolition is needed to remove a fire damaged building on the site.

**City Loan for the Development.** The City has agreed to lend to the Borrower for eligible Development Costs up to \$9,875,000 (the "City Loan") during the construction period and through the permanent period after construction and lease-up. The interest rate will be 2.0% on the Permanent City Loan. The City Loan may be subordinated to Pacific Western Bank's construction and permanent loan if required for feasibility, consistent with the City's subordination policy. The City Loan will be accompanied by an Affordability Restriction (the "City's Affordability Restriction") to be recorded that will run for at least 55 years from the completion of the Development. The City's Affordability Restriction shall not be subordinated.

**City as Issuer of Multifamily Housing Bonds.** The City's Policy for Issuance of Multifamily Housing Revenue Bonds requires the City to be the issuer of tax-exempt multifamily housing revenue obligations in connection with the financing or refinancing of affordable rental housing projects for which it has provided, or will be providing, a loan.

**Prevailing Wages and Labor Standards.** In accordance with City Resolutions No. 61144 and 61716, City prevailing wages policy will apply to the Development and will be overseen by the City's Office of Equality Assurance. The City's loans and fee reductions are excluded from the requirements of Part 3 of Chapter 14.10 pursuant to Section 14.10.250.B.

**Sources of Project Funding.** The 2021E Notes will fund a portion of the total development costs, which are currently estimated to be \$63,687,532. During the construction period, the 2021E Notes will be drawn down over time up to the authorized amount of \$37,341,010. The 2021E Notes will bear interest at a blended rate during construction estimated at 3.5%. Following the completion of construction of the Development and its lease-up (“at permanent”), the 2021E-2 Note will be fully repaid, and the 2021 E-1 Note will have a remaining principal amount of approximately \$11,050,000, and will bear interest at a different fixed rate, estimated at 3.75%. The primary source of repayment of the portion of the 2021E Notes at permanent conversion is anticipated to be Low-Income Housing Tax Credit proceeds from Raymond James.

The sources and uses of funding for the Development’s construction and permanent phases currently are estimated as follows (actual amounts may vary from these estimates):

<b>City of San José – Mariposa Place Plan of Finance – Sources of Funding*</b>		
<b>Source</b>	<b>Construction</b>	<b>Permanent</b>
2021E Notes .....	\$ 36,000,000	\$ 11,050,000
City of San José.....	9,875,000	10,547,628
County of Santa Clara Acquisition Loan .....	5,500,000	5,500,000
County of Santa Clara Measure A Funds .....	3,800,000	3,800,000
Tax Credit Equity .....	3,977,634	31,642,006
Deferred Costs & Reserves/Deferred Developer Fee.....	4,534,898	1,147,898
<b>Total .....</b>	<b>\$ 63,687,532</b>	<b>\$ 63,687,532</b>

\*Based on developer’s financial analysis provided on November 17, 2021.

<b>City of San José – Mariposa Place Plan of Finance – Uses of Funding*</b>	
	<b>Amount</b>
Land Cost/Acquisition .....	\$ 5,830,000
New Construction .....	42,434,202
Architectural Fees .....	1,445,416
Construction Interest & Fees .....	1,633,206
Permanent Financing .....	657,900
Legal Fees.....	125,000
Reserves .....	1,582,202
Soft Contingency Costs .....	425,000
Other Project Costs .....	5,909,606
Developer Costs.....	3,645,000
<b>Total .....</b>	<b>\$ 63,687,532</b>

\*Based on Developer’s construction estimate dated November 17, 2021.

***Financing History of the Project – Key Dates.*** The following are the key dates relating to the financing history of the Development:

- May 25, 2021 - The City submitted a joint application to California Debt Limit Allocation Committee (“CDLAC”) and CTCAC for a private activity allocation in the amount of \$31,341,010 (CDLAC) and \$2,831,771.21 in annual 4% Federal tax credits (CTCAC) and \$7,886,595 in State Tax Credits.
- August 11, 2021 - The City received a private activity bond allocation from CDLAC for the 2021E Notes and the Borrower received a reservation of 4% Federal and State tax credits in the requested amounts.
- November 2, 2021 - The Director of Finance held a TEFRA<sup>1</sup> hearing regarding the issuance of tax-exempt multifamily housing revenue obligations in an amount not to exceed \$31,341,010 to finance a portion of the cost of the construction of the Development.

## **ANALYSIS**

The Mariposa Place affordable housing development will provide 79-units of one and two bedroom apartments for individuals and families who are experiencing homelessness or at-risk of homelessness in the Sunol-Midtown area of San José and one manager’s unit not subject to income restrictions. The California Department of Housing and Community Development determines the number of new homes needed to meet the demand of the Bay Area and publishes its findings as the Regional Housing Needs Assessment. These units will count towards the Regional Housing Needs Assessment’s very low and low-income housing goals. In addition, these units will meet the City’s Housing’s Crisis goal and will provide permanent supportive housing in support of the Community Plan to End Homelessness. The site falls into the Race Street Light Rail Urban Village Plan and is considered Category 2 of the Siting Policy.

The development is centrally located to a variety of amenities. The site is adjacent to the bridge which spans the Los Gatos Creek, the light rail and the Caltrain lines with the Los Gatos Creek trail and the Bautista pocket park a 2-minute walk from the development as well as several grocery stores, pharmacies and restaurants within a half-mile of the development Santa Clara Valley Transportation Authority (“VTA”) Light Rail, Caltrain and Amtrak services are approximately a 15-minute walk from the site. In addition to the local amenities the site is thoughtfully designed to provide recreational and communal amenities on the top floor of the building including: a rooftop terrace for residents to enjoy, a group meeting room, service coordination room, manager’s office, fitness center, common room & recreation room. These amenities partnered with the ongoing onsite supportive services for the formerly homeless residents provided through the Office of Supportive Housing aim to provide stability, opportunity and support as residents transition into their new homes.

---

<sup>1</sup> A Tax Equity and Fiscal Responsibility Act (“TEFRA”) hearing is a public inquiry required by the Internal Revenue Service of non-profit borrowers that intend to issue tax-exempt debt. The TEFRA hearing provides the public an opportunity to comment on the use of tax-exempt bond proceeds by the specific borrowing institution to finance their capital needs.

This portion of the report is divided into several sections to address the items in staff's recommendation to proceed with the financing for the Development. These sections describe the financing structure, financing documents, financing team participants, and financing schedule.

### **Bond Financing Structure**

#### ***Overview of the Multifamily Housing Revenue Note Financing***

**General.** Multifamily housing financing historically has involved the issuance of tax-exempt bonds on behalf of private developers of qualifying affordable rental apartment projects. The City would issue tax-exempt bonds and loan the proceeds to the developer/borrower. The advantages of tax-exempt financing to developers include below-market interest rates and low-income housing tax credits – features that are not available with a conventional multifamily housing mortgage loan.

While not called “bonds”, the 2021E Notes operate in a similar manner to tax-exempt multifamily housing bonds. The City Charter provides that the City may issue revenue bonds and execute and deliver revenue notes pursuant to California law. The City is authorized to issue the 2021E Notes pursuant to California Health and Safety Code Sections 52075-52098, as amended (the “Act”), which authorize cities to issue revenue bonds and execute and deliver revenue notes for the purpose of financing the acquisition and construction of multifamily rental housing. Section 52011 of the California Health and Safety Code defines “Bonds” to include notes for purposes of the Act. The 2021E Notes use a portion of the State’s annual federal tax-exempt private activity volume cap allocated by CDLAC.

The 2021E-1 Note also allows the Development to qualify for tax credits provided through CTCAC.

The 2021E Notes are limited obligations of the City, payable solely from loan repayments by the Borrower and are not secured by the general taxing power of the City or any other asset of the City.

The note financing structure has become commonplace and is utilized because of a ruling of the Office of the Comptroller of the Currency that distinguished loans from bonds for purposes of Community Reinvestment Act credit. Banks have been utilizing the note financing approach on the belief that it meets the Office of the Comptroller of the Currency’s definition of a Community Reinvestment Act loan as well as CDLAC’s requirements for tax-exempt financing.

**Requirements for Tax-Exemption.** For a private activity multifamily housing revenue bond or note to qualify for tax exemption, federal law requires, among other matters, that one of two restrictions apply: either (1) at least 20% of the units in the housing development must be reserved for occupancy by individuals and families whose income is 50% or less of area median income or (2) at least 40% of the units must be reserved for occupancy by individuals and families whose income is 60% or less of area median income. While this second restriction will be incorporated into the Regulatory Agreement for the 2021E Notes, the Development will also be subject to additional affordability restrictions.

### ***Structure of the 2021E Notes***

**Direct Purchase/Funding Structure.** The 2021E Notes will be structured as non-rated and non-credit-enhanced obligations that are directly funded and purchased initially by Pacific Western Bank. Pursuant to the City's policies regarding non-credit-enhanced bonds, Pacific Western Bank will sign an Investor Letter acknowledging that it is a "qualified institutional buyer" or "accredited investor" that is a sophisticated investor, as required under the City's Policy for the Issuance of Multifamily Housing Revenue Bonds, who understands and accepts the risks associated with unrated obligations secured solely by the Development rents. If Pacific Western Bank wishes to transfer the 2021E Notes, the new holder must sign and deliver a similar Investor Letter to the City and Fiscal Agent. The 2021E Notes may only be transferred in whole to a single transferee. Pacific Western Bank may sell, grant or convey participation interests in the 2021E Notes to an "accredited investor or "qualified institutional buyer" (collectively, a "Qualified Transferee") that delivers an Investor Letter to the Fiscal Agent. An Investor Letter is not required for transfers of the 2021E Notes to an affiliate of Pacific Western Bank.

**Principal Amounts and Terms.** Based on current projections, the estimated maximum par amount of the 2021E Notes will be \$36,000,000. After the Development is constructed and leased up, and conversion to the permanent loan phase occurs (the "Conversion Date"), the 2021E-2 Note is expected to be fully repaid and the 2021 E-1 Note is expected to be paid down to a permanent loan amount that is estimated at \$11,050,000. The source of the funds to pay principal of the 2021E Notes on the Conversion Date will be Low-Income Housing Tax Credit proceeds. The Conversion Date is anticipated to occur approximately 43 months after 2021E Notes closing, subject to one six-month extension.

The maturity of the 2021 E-2 Notes is expected to be specified in the respective Governmental Lender Note and the maturity of the 2021E-1 Note is expected to be approximately 15 years after Conversion. The principal of the 2021E-1 Note will amortize on a 35-year basis.

**Interest Rate.** The blended interest rate on the 2021E Notes during the Construction Period is estimated at 3.5%; the permanent loan rate following the conversion date is estimated at 3.75%, based on the most recent projections.

### ***Financing Documents***

The following is a brief description of the documents the City Council is being asked to approve and authorize for execution. Copies of these documents will be posted on the City's website for the December 14, 2021 City Council meeting.

**Bank Loan Agreement.** The Bank Loan Agreement is among the City, Pacific Western Bank, and U.S. Bank National Association, as fiscal agent (the "Fiscal Agent"). The Bank Loan Agreement will be executed by the Director of Finance, or another authorized officer, on behalf of the City. Pursuant to the Bank Loan Agreement, the Fiscal Agent is authorized to receive, hold, invest, and disburse 2021E Notes proceeds and other funds established thereunder; to

authenticate the 2021E Notes; and to apply and disburse payments to the Noteholder. The Bank Loan Agreement allows for Pacific Western Bank to pursue remedies on behalf of itself as the Noteholder. The Bank Loan Agreement sets forth the guidelines for the administration, investment and treatment of investment earnings generated by each fund and account, and restrictions relating to any subsequent transfer of the 2021E Notes. The Borrower Loan Agreement (described below) obligates the Borrower to compensate the Fiscal Agent for services rendered under the Bank Loan Agreement.

**Borrower Loan Agreement.** The Borrower Loan Agreement is between the City and the Borrower (the “Borrower Loan Agreement”). The Borrower Loan Agreement will be executed by the Director of Finance, or another authorized officer, on behalf of the City. The Borrower Loan Agreement provides for the loan of the proceeds of the 2021E Notes to the Borrower to pay a portion of the costs of the construction of the Development, and for the repayment of such loan by the Borrower. The loan of 2021E Note proceeds will be evidenced by two promissory notes (the “Project Notes”) that correspond to the repayment terms of the respective 2021E Notes. The City’s rights to receive payments on the Project Notes will be assigned to Pacific Western Bank, along with certain other rights under the Borrower Loan Agreement; however, certain reserved rights have been retained by the City, such as the City’s right to receive fees, notices and to indemnification.

**Regulatory Agreement and Declaration of Restrictive Covenants.** The regulatory agreement and declaration of restrictive covenants (the “Regulatory Agreement”) is between the City and the Borrower. The Regulatory Agreement contains certain covenants and restrictions regarding the Development and its operations intended to assure compliance with the Internal Revenue Code of 1986, applicable State law and CDLAC requirements. The Regulatory Agreement is executed by the Director of Finance and Director of Housing, or other authorized officers, on behalf of the City. The Regulatory Agreement restricts the rental of Development units to low-income residents for a period of at least 55 years after 50% of the units in the Development are first occupied.

***Financing Team Participants***

The financing team participants for the 2021E Notes consists of:

- **City’s Municipal Advisor:** PFM Financial Advisors LLC
- **Bond Counsel:** Quint & Thimmig LLP
- **Fiscal Agent:** U.S. Bank National Association
- **2021E Note Purchaser:** Pacific Western Bank

All costs associated with the City’s Municipal Advisor, Bond Counsel and Fiscal Agent are contingent upon the sale of the 2021E Notes and will be paid from 2021E Note proceeds, tax credit equity and/or Borrower funds.

***Financing Schedule***

The current proposed schedule is as follows:

- Council Approval of 2021E Note Documents December 14, 2021
- CDLAC Deadline for 2021E Note Closing February 7, 2022

***Public Disclosure Report Relating to Conduit Revenue Obligations***

The Borrower has prepared a public disclosure report pursuant to California Government Code Section 5852.1, providing good faith estimates of certain costs associated with the issuance of the 2021E Notes.

***City Subordinate Financing***

The City has agreed to lend to the Borrower for eligible Development Costs up to \$9,875,000 during the construction period and through the permanent period after construction and lease-up. As authorized by the recommended actions and under her Delegation of Authority, the Director of Housing will negotiate City Loan documents to include the following terms:

- **Interest Rate:** The fixed interest rate on the City Loan will be 2.0% during the permanent period.
- **Loan Term:** The loan term will be 55 years from the completion of the Development.
- **Subordination:** The City Loan, as well as the loan from the County, may be subordinated to Pacific Western Bank's loan if required for financial feasibility, consistent with the City's subordination policy.
- **Developer Fee:** The total Developer Fee is \$3,645,000, however, \$1,146,606 of the developer fee will be deferred to the permanent period and repaid from the Borrower's share of net cash flow.
- **Affordability Restrictions:** The City will require that all non-manager units be restricted to Affordable Rent, that 40 units be restricted to households with incomes that do not exceed 25% AMI, 20 units are restricted to households that do not exceed 50% AMI, and 19 units are restricted to households with incomes that do not exceed 60% AMI. The City Affordability Restrictions will not be subordinated to Pacific Western Bank's loan.
- **Prevailing Wage:** The City's Prevailing Wage policy will apply.

***City Issuance and Monitoring Fees***

**City Policy.** The City’s Policy for Issuance of Multifamily Housing Revenue Bonds requires that the issuance fee be calculated as follows:

Issuance Fee is an amount equal to the sum of (a) 0.50% of the first \$10,000,000 issued and (b) 0.25% of the remaining par issued. Based on a maximum aggregate Note par of \$37,341,010, the City’s Policy would require an issuance fee of \$118,353.

As the 2021E Notes do not involve a “related party” transaction under Federal tax law, the City will be entitled to collect its full fees under the City Policy.

**City Annual Monitoring Fee.** The City Annual Monitoring Fee, while not directly related to the City Loan, is typically collected under the Regulatory Agreement and Loan Agreement executed as part of the bond issue. Under the City’s Policy for the Issuance of Multifamily Housing Revenue Bonds, the annual fee is equal to one-eighth of a point (0.125%) of the original principal amount of the tax-exempt Bonds, subject to a minimum annual fee of \$7,500. Based on an initial tax-Exempt Bond size of \$31,341,010 the annual fee will be \$39,176. Under City Policy, this fee is paid by the Borrower on a parity with loan repayments used to pay bond debt service unless otherwise approved by the City.

For the Development, staff recommends and requests of Council that the annual bond monitoring fee be bifurcated into two parts: (1) the minimum annual fee of \$7,500 paid on a parity with loan repayments that will repay the Bonds and (2) the remaining balance estimated to be \$31,676 paid after those loan repayments. This bifurcated approach allows for a larger permanent bond amount that offsets the need to increase the City Loan amount by \$2,100,000, 21% more than the \$9,875,000 originally authorized by Council. If Council approves this request, the bifurcation will be documented in the Borrower Loan Agreement, the Regulatory Agreement and in City Loan documentation.

If the 2021E Notes mature or are redeemed prior to maturity, the City has the option to require the Borrower to prepay the annual fee due for the remainder of the Regulatory Agreement term.

**CONCLUSION**

The recommended actions will enable the issuance of tax-exempt multifamily housing revenue notes for the purpose of financing a portion of the costs to construct the Development with apartments serving those experiencing or at risk for homelessness and general affordable units. The City funding targets households with incomes ranging from 25% to 60% of AMI with a period of affordability of at least 55 years following completion. Forty (40) units will be supported by Project-Based Vouchers for at least 20 years which will allow households that are at-risk of becoming homeless and have much lower incomes to live in the Development.

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

This memorandum presents the set of recommendations related to the City Council's approval of the issuance of the 2021E Notes and requires no follow-up to the City Council. Once the 2021E Notes are issued, anticipated in January 2022, and the construction of the Development commences, the Housing Department will provide updates in its Quarterly Construction Reports posted at [www.sjhousing.org](http://www.sjhousing.org) under "Reports & Data."

### **CLIMATE SMART SAN JOSE**

The recommendation in this memo aligns with one or more of Climate Smart San José energy, water, or mobility goals. The construction of the Mariposa Place affordable housing development supports high density development along a transit corridor.

### **PUBLIC OUTREACH**

The method of notifying the community of the City's intent to issue the tax-exempt private activity Bonds is the TEFRA Hearing. The TEFRA Hearing was held on November 2, 2021, before the Director of Finance. The public hearing notice for this hearing was published in the *San José Post - Record* on October 22, 2021. No public comments were made at the TEFRA hearing.

This memorandum and the 2021E Note Documents will be posted on the City's website for the December 14, 2021 Council meeting.

### **COORDINATION**

This report has been prepared by the Finance Department and the Housing Department in coordination with the City Attorney's Office and the City Manager's Budget Office.

### **COMMISSION RECOMMENDATION/INPUT**

This item was not heard by the Housing and Community Development Commission, as approvals of affordable development financing do not fall under the functions, powers and duties of the Commission delineated in Section 2.08.2840 of the San José Municipal Code.

### **FISCAL/POLICY ALIGNMENT**

This action is consistent with the City's *Consolidated Plan 2020-2025* adopted by City Council on August 11, 2020, to provide homes for very low- and extremely low-income households; and

with Goal H-2 of the City’s *Housing Element 2014-2023*, adopted by City Council on January 27, 2015, to “increase, preserve, and improve San José’s affordable housing stock.” and the Community Plan to End Homelessness goal to “double the number of supportive housing units in Santa Clara County.”

**COST SUMMARY/IMPLICATIONS**

The Borrower will pay all issuance costs of the 2021E Notes from tax credit equity and/or Borrower funds. The 2021E Notes will not be paid from, nor secured by, the general taxing power of the City or any other City asset.

The City is expected to receive revenue from the issuance of the 2021E Notes in the amount of \$118,353 and annual monitoring in the amount of \$39,176.

Allowing the developer to split their Bond monitoring fee payment in two parts—with \$7,500 paid on par with the Bond debt service and the remaining \$31,676 paid as a permitted expense after debt service—would enable the development to generate enough revenue to support an additional \$2,100,000 on the permanent bond loan. If Council did not grant this request, project staff would request authorization from City Council to increase the City’s previous funding commitment of \$9,875,000 by an additional \$2,100,000 to ensure that the development remains financially viable.

Funding in the amount of \$9,875,000 has been previously appropriated in the Low- and Moderate-Income Housing Asset fund for a Construction-Permanent Loan. There is no fiscal impact to the General Fund as a result of this action.

**CEQA**

Exempt per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109.

/s/  
JULIA H. COOPER  
Director of Finance

/s/  
JACKY MORALES-FERRAND  
Director, Housing Department

For questions, please contact Nikolai J. Sklaroff, Deputy Director of Finance, Debt & Treasury Management Division at (408) 535-7832 or Rachel VanderVeen, Deputy Director of the Housing Department at (408) 535-8231.

Attachment A: Site Map & Renderings  
Attachment B: Public Disclosure Report

**ATTACHMENT A**  
**Mariposa Place**  
**750 West San Carlos Street, San José, CA**  
**Rendering & Site Map**





## ATTACHMENT B – PUBLIC DISCLOSURE REPORT

### PUBLIC DISCLOSURES RELATING TO CONDUIT REVENUE OBLIGATIONS

Pursuant to California Government Code Section 5852.1, the borrower (the “Borrower”) identified below has provided the following required information to the City of San José (the “City”) prior to the City’s regular meeting (the “Meeting”) of its City Council (the “City Council”) at which Meeting the City Council will consider the authorization of conduit revenue Note as identified below.

1. Name of Borrower: San Jose W. San Carlos LP, a California limited partnership.
2. City Council Meeting Date: December 14, 2021.
3. Name of Bond Issue / Conduit Revenue Obligations: City of San José Multifamily Housing Revenue Note (Mariposa Place) Series 2021E-1(Tax-Exempt) and Series 2021E-2 (Taxable) (the “Notes”)
4.  Private Placement Lender or Note Purchaser,  Underwriter or  Financial Advisor (mark one) engaged by the Borrower from which the Borrower obtained the following required good faith estimates relating to the Note:

(A) The true interest cost of the Notes, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the new issue of the Note (to the nearest ten-thousandth of one percent): 3.6487%

(B) The estimated finance charges of the Note, which mean the sum of all fees and charges paid to third parties: \$0

(C) The amount of proceeds received, or deemed received, by the public body for sale of the Note less the finance charges of such Note described in subparagraph (B) and any reserves or capitalized interest paid or funded with proceeds of such Note: an estimated \$34,417,799

(D) The total payment amount, which means the sum total of all payments the Borrower will make to pay debt service on the Note plus the finance charges of the Note described in subparagraph (B) not paid with the proceeds of such Note (which total payment amount shall be calculated to the final maturity of such Note): \$44,760,087

This document has been made available to the public at the Meeting of the City Council.

Dated: December 14, 2021

Information Provided by: Danco Communities, Pacific Western Bank, PFM Financial Advisors LLC