



COUNCIL AGENDA: 10/18/22
FILE: 22-1523
ITEM: 2.11

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand
Julia H. Cooper

SUBJECT: SEE BELOW

DATE: September 26, 2022

Approved 

Date
10/5/22

COUNCIL DISTRICT: 9

SUBJECT: APPROVAL OF AN EXCEPTION TO THE CITY MULTIFAMILY HOUSING REVENUE BOND POLICY EXCEPTION ALLOWING VIEW AT BLOSSOM HILL AND 2350 S. BASCOM AFFORDABLE HOUSING DEVELOPMENTS TO USE AN ALTERNATE BOND ISSUER

RECOMMENDATION

Adopt a resolution authorizing an exception to the City Council’s Multifamily Housing Revenue Bond Policy exception, number 1-16, for the issuance of Multifamily Housing Revenue Bonds for View at Blossom Hill and for 2350 S. Bascom, due to special circumstances, thereby allowing the California Municipal Finance Authority to issue the bonds.

OUTCOME

Approval of this recommendation will enable two affordable housing developments, View at Blossom Hill and 2350 S. Bascom, to move forward with the California Municipal Finance Authority (CMFA) as their alternate bond issuer, resulting in the development of 389 new affordable apartments and five manager units.

BACKGROUND

San José lacks enough affordable housing to meet residents’ needs, with a severe shortage of adequate, affordable housing for extremely-low-, very-low-, low-, and moderate-income households. The Mayor and the City Council have responded to this need for affordable housing by setting a goal of facilitating 25,000 new housing units by 2023, of which 10,000 will be

affordable. Staff continues to work to find solutions for affordable housing development to move forward to meet the needs of our community.

The City of San José (City) adopted a Multifamily Housing Revenue Bond Policy (Bond Policy)¹ in 2002 to provide guidance when the City acts as the issuer of multifamily housing revenue bonds. The Bond Policy requires that the City serve as the bond issuer for financing affordable housing developments unless an exception is approved by City Council. The Bond Policy allows an alternate bond issuer under the following circumstances:

- If the City is not making a grant or loan to the project, the project is one of multiple projects being financed by the project sponsor;
- The alternate issuer will assume full responsibility for issuance and ongoing compliance of the bond issue with federal tax and state laws; and
- If there are special circumstances merited by the needs of the project and the financing.

The Affordable Housing Developments

I) View at Blossom Hill

View at Blossom Hill is located at 1007 Blossom Hill Road. JEMCOR Development Partners proposes to build 271 new affordable rental homes. With a mix of apartment sizes, the proposed development will provide housing for individuals and families earning between 30% and 70% of the area median income (AMI). Based on the Department of Housing and Community Development’s federal and state income limits, the 2022 annual income limit for 30% AMI is \$35,000-\$50,000 and the 70% AMI income limit is \$83,000-\$118,000 for individuals and families. The U.S. Department of Housing and Urban Development categorizes households with extremely-low income as earning between 15% to 30% AMI and very-low income earning between 30% to 50% AMI. The developer expects the construction to start in winter of 2022 and should be completed by late 2024.

Table 1: View at Blossom Hill Affordability Unit Mix and AMI Levels

Unit Type	30% AMI	50% AMI	60% AMI	70% AMI	Manager	Total
One-bedroom	8	7	32	33	-	80
Two-bedroom	18	18	70	66	4	176
Three-bedroom	1	2	6	6	0	15
Total	27	27	108	105	4	271

¹ City Policy 1-16, *Policy for the Issuance of Multifamily Housing Revenue Bonds*

<https://www.sanjoseca.gov/home/showpublisheddocument/50379/637146963305870000>

II) 2350 S. Bascom Affordable Housing Development

The development, 2350 S. Bascom, is a 123-unit, five-story new affordable rental development proposed by Pacific West Communities and Maracor Development. With a mix of apartment sizes, the proposed development will provide housing for individuals and families earning between 30% and 80% AMI. Based on the Department of Housing and Community Development’s federal and state income limits, the 2022 annual income limit for 30% AMI is \$35,000-50,000, and the 80% AMI income limit is \$94,000-\$135,000 for individuals and families. The development includes 36 three-bedroom apartments which will help address the need for affordable family-sized homes in the city. The developer expects the construction to start in winter of 2022 and should be completed by late 2024.

Table 2: 2350 S. Bascom Affordability Unit Mix and AMI Levels

Unit Type	30% AMI	50% AMI	60% AMI	80% AMI	Manager	Total
Studio	6	6	32	6	-	50
One-bedroom	1	1	2	1	-	5
Two-bedroom	3	3	22	3	-	31
Three-bedroom	3	3	15	15	1	37
Total	13	13	71	25	1	123

ANALYSIS

The Bond Policy states that the City shall be the issuer of all bonds financing multifamily housing rental developments within the City, with specified exceptions. One of these exceptions allows an alternate issuer to issue bonds for an affordable housing development within the City when there are special circumstances merited by the needs of the development and the financing. Special circumstances that support an exception in this case are (1) neither development has any City funding, and (2) the lack of staff capacity to issue the bonds.

The Basis for Multifamily Housing Revenue Bonds Policy Exception

The following reasons are the basis to request the policy exception so that these two affordable housing developments can complete assembling their financing.

1) The City does not have any subordinate funding in these two developments

The Bond Policy was implemented, in part, to protect the City's subordinate debt. The City does not have any subordinate funding in connection with the developments, so City issuance is not necessary.

View at Blossom Hill development applied for a \$75,000,000 bond allocation from the California Debt Limit Allocation Committee (CDLAC) on August 9, 2022. This development has not requested financing from the City. CMFA's recycled bond will be an additional source of construction financing for this development.

2350 S. Bascom development applied for a \$48,000,000 bond allocation from CDLAC on March 16, 2022 and was awarded the allocation on June 15, 2022. The developer's request for funding from the City's December 2021 Notice of Funding Availability was not included in the application as a source of financing. Instead, a recycled bond was included as a new source of financing. The developer confirmed it no longer needs City funds and, therefore, the Housing Department will not be seeking a funding commitment for the development.

2) The City does not currently have the capacity to prepare for and manage the issuance of these bonds

The City received 19 Notice of Funding Availability applications in December 2021 and awarded 16 developments. Eleven of the 16 applicants are active in the pipeline. In June 2022, City Council approved funding commitments for four of these developments, totaling 448 homes. All four co-applied with the City for CDLAC bonds on August 9, 2022. CDLAC will announce its bond allocation decision for these developments on November 30, 2022. If all four developments receive a bond allocation, their closings will occur during the same time period as View at Blossom Hill and 2350 S. Bascom developments. Three more Notice of Funding Availability proposers will likely seek City Council approval of their requests for City financing commitments in winter 2022 to prepare for March 2023 CDLAC applications.

The Housing Department, City Attorney's Office, and Finance Department staff is at capacity with this current pipeline and will work on these City multifamily housing revenue bond issuances throughout fiscal year 2022-2023. These transactions will provide new revenue to the City. In consideration of the City's future Notices of Funding Availability and CDLAC application rounds, and to manage the new construction affordable housing pipeline more efficiently, CMFA and the City have agreed to work proactively and with better coordination so that CMFA can request these policy exceptions prior to submitting CDLAC applications.

The Alternate Bond Issuer: CMFA

CMFA requests to be the alternate bond issuer for these two affordable developments. CMFA was established in 2004 under the California Government Code as a statewide Joint Powers Authority to provide local governments and private industry access to tax-exempt, low-interest financing to achieve public-benefit goals. We expect CMFA will contribute 25% of its issuance fee of \$144,691, estimated at \$36,173, to the Housing Trust Fund to support activities of the Homelessness Response Team.

In instances where the City is not the bond issuer for a development, it is the City's policy to require the issuer to assume full responsibility for issuance and ongoing compliance of the bond issue with federal and state tax laws. The City will, however, hold two separate Tax Equity and Fiscal Responsibility Act of 1986 hearings for the CMFA issuances, which will be placed on a future City Council agenda.

CONCLUSION

Staff recommends allowing the two developments to use CMFA as the alternate bond issuer, as they meet the requirements to receive an exception under the Bond Policy. Neither View at Blossom Hill nor 2350 S. Bascom development have City loans. Currently, staff across three departments lack the capacity to work on additional multifamily housing bond issuances. The City will hold two separate Tax Equity and Fiscal Responsibility Act of 1986 hearings, one for each development, before the bond issuance deadlines.

EVALUATION AND FOLLOW-UP

The Housing Department posts periodic reports on the status of affordable properties undergoing rehabilitation or construction on its website, www.sjhousing.org. If the recommended actions are approved, the progress of this development will be included in these periodic production reports.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with one or more of Climate Smart San José's energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the October 18, 2022 City Council meeting.

COORDINATION

Preparation of this report was coordinated 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 expenditure is consistent with the following policy documents: *The City's Envision 2040 General Plan* and the *2014-23 adopted Housing Element* in that it will help the City meet its Regional Housing Needs Allocation; the City's current *Housing Investment Plan* in that it increases San José's supply of affordable housing; the *City's 2015-20 HUD Consolidated Plan* in that it will provide rental apartments affordable to very-low- and extremely-low-income households.

COST SUMMARY/IMPLICATIONS

Approving this recommendation will result in the City receiving a \$5,000 fee for holding each Tax Equity and Fiscal Responsibility Act of 1982 hearing per development but will result in the City forgoing bond administration fees for this transaction. The Bond Policy outlines the parameters for the administrative fees including the issuance fee, 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 and the annual monitoring fee in an amount equal to 0.125% of the original principal loan amount which may be reduced at conversion, subject to a minimum fee of \$7,500, for the 55-year term of the regulatory period. Based on these parameters, and a total issuance of \$123,000,000 for the two developments, the City will forgo approximately \$357,500 in issuance fees and \$153,750 annually. These fees would be collected only if the City were issuing these bonds.

Table 3: Estimated Foregone Fee Amounts

Development	Estimated Bond Amount	Issuance Fee	Annual Monitoring Fee
View at Blossom Hill	\$ 75,000,000	\$ 212,500	\$ 93,750
2350 S. Bascom	\$ 48,000,000	\$ 145,000	\$ 60,000
Total	\$ 123,000,000	\$ 357,500	\$ 153,750

CEQA

View at Blossom Hill, 1007 Blossom Hill Road: Categorically Exempt, File No. H21-020, CEQA Guidelines Section 15332, Infill Development Projects.

2350 S. Bascom Avenue: Exempt from CEQA review per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Development pursuant to Government Code Section 65913.4, File No. ER20-109.

/s/
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/s/
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Director of Housing

The principal author of this memorandum is Banu San, Housing Policy and Planning Administrator. For questions, please contact Qianyu Sun, Deputy Director of Finance – Debt and Treasury Management, at (408) 535-7832 or Rachel VanderVeen, Deputy Director of the Housing Department at (408) 535-8231.