CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Jacky Morales-Ferrand
Julia H. Cooper

SUBJECT: **SEE BELOW**

DATE: September 15, 2020

Approved D. DSyL

Date 9/17/2020

COUNCIL DISTRICT: 5

SUBJECT: APPROVAL OF THE ISSUANCE OF A TAX-EXEMPT MULTIFAMILY HOUSING REVENUE NOTE AND THE LOAN OF THE PROCEEDS THEREOF FOR THE FINANCING OF ALUM ROCK FAMILY HOUSING

RECOMMENDATION

(a) Adopt a resolution:

(1) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as "City of San José, California Multifamily Housing Revenue Note (Alum Rock Family Housing), Series 2020A" (the "2020A Note") in a principal amount not to exceed $36,855,974;

(2) Approving the loan of 2020A Note proceeds to Alum Rock Family Housing, L.P. a California limited partnership created by Affirmed Housing Group, a California for-profit corporation, to finance the construction and development of an 87-apartment multifamily development known as Alum Rock Family Housing located at 2380 Alum Rock Avenue, in San José (the "Development");

(3) Approving in substantially final form the Funding Loan Agreement, the Borrower Loan Agreement and Regulatory Agreement and Declaration of Restrictive Covenants (collectively, the "2020A Note Documents");

(4) Authorizing a reduction in the City's issuance and annual monitoring fees in the approximate amount of $600,000 during the term of the 2020A Note notwithstanding the City's Policy for Issuance of Multifamily Housing Revenue Bonds, as provided below; and

(5) Authorizing and directing the City Manager, Director of Housing, Director of Finance, or their designees, to execute and deliver the 2020A Note Documents together with any documents ancillary to the 2020A Note Documents.

(b) Adopt a resolution:

(1) Authorizing a change in City Loan terms to allow an increase in the Development's rents and income up to 60% AMI (low-income) for new tenants in subsidized apartments in the event of expiration or termination of Project Based Vouchers, and for all tenants in the event of foreclosure, to the extent the City has determined such increase is needed for feasibility of the Development and allowed by other funds; and

(2) Authorizing the Director of Housing, or Designee, to negotiate and execute loan documents, amendments, and all other documents related to this action.

OUTCOME

Approval of the recommended actions will enable the issuance of a multifamily housing revenue note for the purpose of financing a portion of the costs to construct the Development, an 87-unit affordable rental apartment development, with apartments restricted to low and extremely low-income households (except for two unrestricted manager's apartments), and remaining affordable for a period of at least 55 years following completion.

EXECUTIVE SUMMARY

In accordance with the City's Policy for Issuance of Multifamily Housing Revenue Bonds, Affirmed Housing Group, a California for-profit corporation (the "Developer"), has requested that the City issue a tax-exempt multifamily housing revenue note (the "2020A Note") in an amount not to exceed $36,855,974. The 2020A Note will be purchased initially by Bank of America, N.A. ("Bank of America") and, after construction and lease-up California Community Reinvestment Corporation ("CCRC") intends to purchase the Note from Bank of America.

The proceeds of the 2020A Note will be loaned to Alum Rock Family Housing, L.P., 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 87-unit rental housing development to be known as Alum Rock Family Housing. The 2020A Note 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:

(1) **Administrative General Partner**: AHG Alum Rock LLC, a California limited liability corporation, the sole member of which is the Developer.
(2) **Managing General Partner**: NEXUS MGP LLC, a California limited liability corporation, the sole member of which is NEXUS for Affordable Housing, Inc., a California nonprofit public benefit corporation
(3) **Limited Partner**: An entity to be formed by Bank of America.

The Developer has requested that the City issue the 2020A Note for the purpose of lending the proceeds thereof to the Borrower. The proceeds of the 2020A Note, 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 87 units consisting of studio, one-bedroom, two-bedroom and three-bedroom rental apartments. The apartment mix and affordability levels by Area Median Income (AMI) will be as follows:

Alum Rock	Apartments	30% AMI	50% AMI	60% AMI
Studio/1Bath	29	22	3	4
1 Bedroom/1 Bath	13*	12	-	-
2 Bedroom/1 Bath	22	10	7	5
3 Bedroom/2 Bath	23*	7	8	7
Total Apartments	**87**	**51**	**18**	**16**

* Includes one unrestricted manager’s apartment in this count (total of two)

This project will include 29 apartments for individuals who are chronically homeless supported by Project Based Vouchers for at least 20 years and 14 apartments for Rapid Rehousing (RRH) through the County’s program for individuals and families that are currently experiencing homelessness. An Agreement to enter into a Housing Assistance Payment (“HAP”) contract will be provided with respect to the 29 project-based Section 8 apartments prior to the Note closing. Supportive services will be provided to these special needs apartments by the County Office of Supportive Housing with PATH as a service provider.

The affordability restrictions for the Development will remain for a period of at least 55 years from the completion of construction.

The Development will consist of a five-story Type III-A wood frame structure above two levels of Type 1-A concrete for garage parking and ground floor commercial retail.

The parking garage will allow public access to 11 commercial spaces while providing 35 secured parking spaces for individuals. A long-term bike storage room at the ground level can accommodate 99 bicycles as well as a 12’ x 14’ food storage and service room.

Residential amenities include: property and case management offices; a computer lab; a large courtyard; community rooms; laundry rooms; TV room; a large outdoor deck that provides additional open space for individuals; surveillance cameras; and elevator. Apartment amenities include blinds and Energy Star appliances (refrigerator, stove/oven, dishwasher, microwave and disposal).

The developer has indicated that the Development will be Green Point Rated and will feature photovoltaic and hot water systems designed to offset a significant portion of the building's electrical and water heating requirements. The Development will incorporate highly sustainable design features to reduce energy use and environmental impacts that meet the City requirements.

The Development will be constructed on a parcel that will be acquired by the County of Santa Clara and leased to the Borrower for a term of at least 75 years.

The Development will be subject to low-income housing tax credit ("LIHTC") restrictions. The Housing Authority of the County of Santa Clara County will provide project-based vouchers for 29 apartments which will be permanent supportive housing apartments under a Santa Clara County (the "County") supportive/homeless housing initiative. The City and County will also provide funding subject to affordability restrictions.

Construction Schedule. Construction is expected to commence in October 2020 and run through June 2022. Some demolition is needed – to remove a single story retail strip center, constructed in 1965 and containing approximately 8,937 square feet of gross building area. Minor off-site work is needed such sanitary and storm sewer lines, surface and street light improvements.

Relocation. The Borrower has provided a relocation plan to the City, which is currently under review by the City Attorney's Office to assure the plan is consistent with state relocation law. As the County of Santa Clara County's Office of Supportive Housing (OSH) will own the land, the City will work collaboratively with the OSH to assure that any required relocation is completed in compliance of state relocation law.

City Loan for the Development. The City has agreed to lend to the Borrower for eligible Development Costs up to $8,415,000 during the construction period (the "City Construction Loan") and up to $9,350,000 during the permanent period after construction and lease up (the "City Permanent Loan" and, with the City Construction Loan, the "City Loan"). The interest rate on the City Construction Loan and City Permanent Loan is 3%. The City Loan will be accompanied by an Affordability Restriction (the "City's Affordability Restriction"). The City's Affordability Restriction will run for at least 55 years from the completion of the Development and may be subordinated to Bank of America's construction loan and CCRC's permanent loan if required for feasibility, consistent with the City's subordination policy.

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 developments 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 Development Funding. The 2020A Note will fund a portion of the total Development costs, which are currently estimated to be $63,279,625. During the construction period, the 2020A Note will be drawn down over time – to an estimated aggregate amount of $36,342,004 and bear interest at a variable rate. Following the completion of construction of the Development and its lease-up ("at Permanent"), the 2020A Note will be repaid to a remaining principal amount of approximately $13,865,692, will bear interest at a fixed rate and will be purchased from Bank of America by CCRC in accordance with the terms of a loan purchase agreement to be entered into among Bank of America, CCRC and the Borrower. The sources of repayment are anticipated to be low-income housing tax credits and permanent City Loan proceeds.

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):

City of San José – Alum Rock Family Housing
Plan of Finance – Sources of Funding

Source	Construction	Permanent
2020 Note	$ 36,342,004	$ 13,865,692
2020 Note Paydown during Construction	(246,919)	-
City of San José	1,194,377	9,350,000
County of Santa Clara Loan	11,352,500	11,950,000
Tax Credit Equity (Federal)	14,637,663	23,335,116
Tax Credit Equity (State)	-	3,278,817
Deferred Developer Fee	-	1,500,000
Total	$ 63,279,625	$ 63,279,625

City of San José – Alum Rock Family Housing
Plan of Finance – Uses of Funding at Permanent

Uses	Permanent
Ground Lease Costs	$ 736,224
Relocation	436,825
Construction	45,002,994
Architect & Engineering	2,153,500
Contingency	4,050,269
Construction Interest and Fees	2,163,595
Reserves	393,000
Miscellaneous Financing and Soft Costs	4,343,218
Developer Fee	4,000,000
Total	$ 63,279,625

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

Date	Action
November 22, 2019	The Director of Finance held a TEFRA hearing regarding the issuance of tax-exempt multifamily housing revenue obligations in an amount not to exceed $42,000,000 to finance the construction of the Development.
December 2, 2019	The Mayor certified the actions of the Director of Finance.
January 14, 2020	City Loan for the Development was approved by the City Council.
April 14, 2020	The City submitted a joint application to CDLAC and CTCAC for a private activity allocation in the amount of $36,855,974 (CDLAC) and $2,516,925 in annual 4% Federal tax credits (CTCAC). At the same time, the Borrower submitted an application to CTCAC for $4,475,590 in State tax credits.
April 14, 2020	The City received a private activity bond allocation from CDLAC for the 2020A Note and the Borrower received a reservation of 4% Federal tax credits and State tax credits in the requested amounts.

ANALYSIS

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 developments. The City issues 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 avaibility of low-income housing tax credits – features that are not available with a conventional multifamily housing mortgage loan.

The 2020A Note operates 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 2020A Note 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 2020A Note uses a portion of the State's annual federal tax-exempt private activity volume cap allocated by CDLAC.

The 2020A Note also allows the Development to qualify for tax credits provided through the California Tax Credit Allocation Commission (CTCAC). The 2020A Note is a limited obligation of the City, payable solely from loan repayments by the Borrower and is not secured by the general taxing power of the City or any other asset of the City.

The note financing structure is being utilized because of a ruling of the Office of the Comptroller of the Currency ("OCC") that distinguished loans from bonds for purposes of Community Reinvestment Act ("CRA") credit. For the past several years, banks have been utilizing the note financing approach on the belief that it meets OCC's definition of a CRA 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 apartments 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 apartments 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 2020A Note, the Development will also be subject to additional restrictions.

Structure of the 2020A Note

Direct Purchase/Funding Structure. The 2020A Note will be structured as a non-rated and non-credit-enhanced obligation that is directly funded and purchased initially by Bank of America. Pursuant to the City's policies regarding non-credit-enhanced bonds, Bank of America 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 Bank of America wishes to transfer the 2020A Note, the new holder must sign and deliver a similar Investor Letter to the City and Fiscal Agent. The 2020A Note may only be transferred in whole to an "Approved Transferee", which is a qualified institutional investor under the Securities Act or 1933 and having capital and surplus of at least $5 billion, an affiliate of the lender or a trust or custodial arrangement established by the lender.

Principal Amounts and Terms. Based on current projections, the estimated maximum par amount of the 2020A Note will be $36,342,004, with a not to exceed amount of $36,855,974. After the Development is constructed and leased up, and conversion to the permanent loan phase occurs (the "Conversion Date"), the 2020A Note is expected to be paid down to a permanent loan amount that is estimated at $13,865,692 – at which point it will be purchased from Bank of America by CCRC. The sources of 2020A Note paydown on the Conversion Date are low-income housing tax credit payments and permanent City Loan proceeds. The Conversion Date is anticipated to occur approximately 24 months after 2020A Note closing.

The maturity of the 2020A Note is expected to be approximately 17 years after conversion. The 2020A Note will amortize on a 35-year basis.

Interest Rate. During construction, the interest rate on the 2020A Note will be variable and based on one-month LIBOR plus a spread. The interest rate will convert to a fixed rate after the Conversion Date based on a LIBOR-based swap rate plus a spread – with the rate set prior to 2020A Note closing. The interest rate swap is designed to mitigate the variability of the interest rate, subject to certain potential increases and risks in the interest rate swap documentation. The estimated permanent loan rate is approximately 4% based on the floor rate in the CCRC term sheet.

Financing Documents

The following is a brief description of the documents the City Council is being asked to approve and to authorize its execution. Copies of these documents will be available in the City of San José Agenda Services website on or about September 18, 2020.

Funding Loan Agreement. The Funding Loan Agreement is among the City, Bank of America, as funding lender (the "Funding Lender") and U.S. Bank National Association as fiscal agent (the "Fiscal Agent"). The Funding Loan Agreement will be executed by the Director of Finance, or another authorized officer, on behalf of the City, and attested by the City Clerk. Pursuant to the Funding Loan Agreement, the Fiscal Agent is authorized to receive, hold, invest, and disburse 2020A Note proceeds and other funds established thereunder; to authenticate the 2020A Note; and to apply and disburse payments to the Noteholder. The Funding Loan Agreement allows for Bank of America to pursue remedies on behalf of itself as the Noteholder. The Funding 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 2020A Note. The Borrower Loan Agreement (described below) obligates the Borrower to compensate the Fiscal Agent for services rendered under the Funding Loan Agreement.

Borrower Loan Agreement. The Borrower Loan Agreement is among the City, the Fiscal Agent and the Borrower (the "Borrower Loan Agreement") and accepted and acknowledge by Bank of America as Funding Lender. 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 2020A Note proceeds to the Borrower for the construction of the Development, and for the repayment of such loan by the Borrower. The loan of 2020A Note proceeds will be evidenced by a Borrower note that corresponds to the repayment terms of 2020A Note. The City's rights to receive payments under the 2020A Note will be assigned to Bank of America, along with certain other rights under the Borrower Loan Agreement and the Borrower note; however, certain reserved rights have been retained by the City, such as the City's right to receive fees and to indemnification.

Regulatory Agreement and Declaration of Restrictive Covenants. The regulatory agreement and declaration of restrictive covenants (the "Regulatory Agreement") is among the City, the Fiscal Agent 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. 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 apartments to low-income individuals for a period of at least 55 years.

Financing Team Participants

The financing team participants for the 2020A Note consists of:

- **City's Municipal Advisor:** Ross Financial
- **Note Counsel:** Orrick, Herrington & Sutcliffe, LLP
- **Fiscal Agent:** U.S. Bank National Association
- **2020A Note Purchaser:** Bank of America, N.A.

All costs associated with the Municipal Advisor, Bond Counsel and Fiscal Agent are contingent upon the sale of the 2020A Note and will be paid from 2020A Note proceeds, tax credit equity and/or Borrower funds.

Financing Schedule

The current proposed schedule is as follows:

- **Council Approval of Note Documents:** September 22, 2020
- **Pre-Close Series 2020A Note:** September 29, 2020
- **Close Series 2020A Note:** October 1, 2020
- **CDLAC Allocation Lapses:** October 13, 2020

City Subordinate Financing

The City has agreed to lend up to $8,415,000 during the construction period and up to $9,350,000 during 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 3%.
- **Loan Term:** The construction loan term will be 30 months with one potential six month extension; the permanent loan term will be 55 years from the completion of the Development.
- **Lien Structure:** The City Loan, as well as the loan from the County, may be subordinated to Bank of America construction loan and CCRC's permanent loan if required for financial feasibility, consistent with the City's subordination policy.
- **Deferred Developer Fee:** The capitalized portion of the Developer Fee is $4,000,000, however $1,500,000 of the capitalized developer fee will be deferred to the permanent period and repaid from the Borrower's share of new cash flow.
- **Affordability Restrictions:** The City will require that all non-manager apartments be restricted to Affordable Rent and that 51 apartments be restricted to households with incomes that do not exceed 30% AMI and 18 apartments be restricted to households with incomes that do not exceed 50% AMI and 16 apartments be restricted to households with incomes that do not exceed 60% AMI. The City Affordability

Restrictions will not be subordinated to Bank of America construction loan and CCRC's permanent loan.

- **"Float Up":** Subject to City Council approval, Development rents and income restrictions are subject to increase (but not more than 60% AMI) for new tenants in subsidized apartments in the event of expiration or termination of subsidy contracts, and for all tenants in the event of foreclosure, to the extent the City has determined the increase to ensure the Development's continued financial feasibility.
- **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 would normally require that the issuance fee and annual monitoring 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.

- Annual Fee applicable to for-profit developers is an amount equal to 0.125% of the par issued for the 55 year term of the regulatory period.

Based on a maximum Note par of $36,324,004, the City's Policy would require an issuance fee of $115,810 and an annual monitoring fee of $45,405 throughout the 55-year Regulatory Agreement term if the 2020A Note matures or is 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.

Recommended Exception to the City Policy due to "Related Party" Considerations. Bank of America is serving as the initial Note purchaser and a Bank of America-affiliated entity is serving as the low-income housing tax credit investor in connection with the Development's funding. Under the Federal tax code, the purchaser and tax credit investor are considered "related parties." According to Note Counsel, the Federal tax code limits the fees that the City can collect in connection with a related parties issuance to 0.125% of the tax-exempt obligations outstanding. The Regulatory Agreement will require the Borrower retain an independent rebate consultant to ensure that the resulting fees paid to the City comply with Federal tax code. Because of the "related party" limitation, the fees projected to be received by the City in connection with the issuance of the Note and the annual monitoring of the Development are projected to be approximately $282,000 in aggregate through the term of the Note compared to approximately $880,000 in aggregate fees that the City would otherwise have received in the absence of a "related party." Following Note maturity through the remainder of the Regulatory Agreement, the City may collect its annual monitoring fee without regard to the "related party" limitation.

Notwithstanding this limitation on City bond-related fees, staff recommends proceeding with the proposed financing structure as part of a Housing Department pilot program for developments obtaining private activity bond allocations before June 30, 2021 to allow issuances with related parties and request Council approval for the consequential fee reductions. The pilot program will allow staff to evaluate whether the benefit from increased tax credit pricing in a related party transaction exceeds the impact to the City due to reduced fees, and whether the costs of this approach are substantially less than alternative financing structures that do not involve related parties. Staff notes the current lending and tax credit environment has been adversely impacted by COVID-19 and financing alternatives appear more limited than before COVID-19.

The City Loan Documents will contain the following provision pertaining to "related parties":

> Absent City Council approval, Developer will not admit partners nor enter into participation agreements nor otherwise take or allow any action that would lead to the violation of the requirements of Qualified Program Investment Requirements as defined in Section 147 of the Internal Revenue Code, or the requirements of applicable Treasury regulations (collectively, the "Related Parties Limitations*"). This development is anticipated to receive City Council approval for a specific Lender and Borrower relationship that does not comply with the Related Parties Limitations in connection with the Series 2020A Note."*

CONCLUSION

The recommended actions will enable the issuance of a multifamily housing revenue note for the purpose of financing a portion of the costs to construct the Development with apartments restricted to low and extremely low-income households, and remaining affordable for a period of at least 55 years following completion.

The Development will serve some of the most vulnerable populations in San José. It will be restricted to individuals with current maximum annual incomes between 30% and 60% of AMI. The Development is designed to serve large families and includes 22 two-bedroom apartments and 22 three-bedroom apartments. Additionally, 29 apartments will be set aside for individuals who are chronically homeless supported by Project Based Vouchers for at least 20 years and 14 apartments are set-aside for Rapid Rehousing (RRH) for individuals and families that are currently experiencing homelessness.

UNIT SIZE	UP TO 30% AMI		UP TO 50% AMI		UP TO 60% AMI		TOTAL
	Units	Max Income	Units	Max Income	Units	Max Income	
0 Bed	22	$37,900	3	$63,200	4	$75,840	29
1 Bed	12	$37,900	0	N/A	0	N/A	12
2 Bed	10	$42,650	7	$71,100	5	$85,320	22
3 Bed	7	$47,350	8	$78,950	7	$94,740	22
Managers Unit	N/A	N/A	N/A	N/A	N/A	N/A	2
Total	51		18		16		87

****Maximum incomes limits are based upon HCD occupancy guidelines of 1 person per bedroom, plus 1.**

Approval of the recommendation action will allow the City to charge a reduced issuer and annual fee so as to comply with U.S. Treasury regulations pertaining to "related parties" for this specific transaction

Approval of the recommendation action will also allow the City Loan for the Development to provide for an increase in rents and income restrictions (but not more than 60% AMI) for new tenants in subsidized apartments in the event of expiration or termination of subsidy contracts, and for all tenants in the event of foreclosure, if needed to ensure the continued financial feasibility of 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 2020A Note and requires no follow-up to the City Council. Once the 2020A Note closes, anticipated in early October 2020, and the construction of the Development commences, the Housing Department will provide updates in its Quarterly Construction Reports posted at 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.

PUBLIC OUTREACH

The method of notifying the community of the City's intent to issue the tax-exempt private activity bonds is the Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing. The TEFRA Hearing was held on November 22, 2019 before the Director of Finance. The public hearing notice for this hearing was published in the *San José Post - Record* on November 15, 2019. No public comments were made at the TEFRA hearing.

This Memorandum and the 2020A Note Documents will be posted on the City's website for the September 29, 2020 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 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

The Mayor and City Council established a goal of building at least 10,000 new affordable apartments in San José by 2022. The approval of this funding commitment will bring the City closer to meeting the 10,000-unit goal. This action is consistent with the City's *Consolidated Plan 2015-2020,* adopted by City Council on May 5, 2015, 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."

COST SUMMARY/IMPLICATIONS

The Borrower will pay all issuance costs from proceeds of 2020A Note, tax credit equity and/or Borrower funds. The 2020A Note 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 Note and annual monitoring in an aggregate amount that does not exceed 0.125% of the outstanding Note – anticipated to be approximately $300,000 through Note maturity. All issuance costs will be paid from proceeds of 2020A Note, tax credit equity and/or Borrower funds.

Funding in the amount of $9,350,000 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

Statutorily 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.

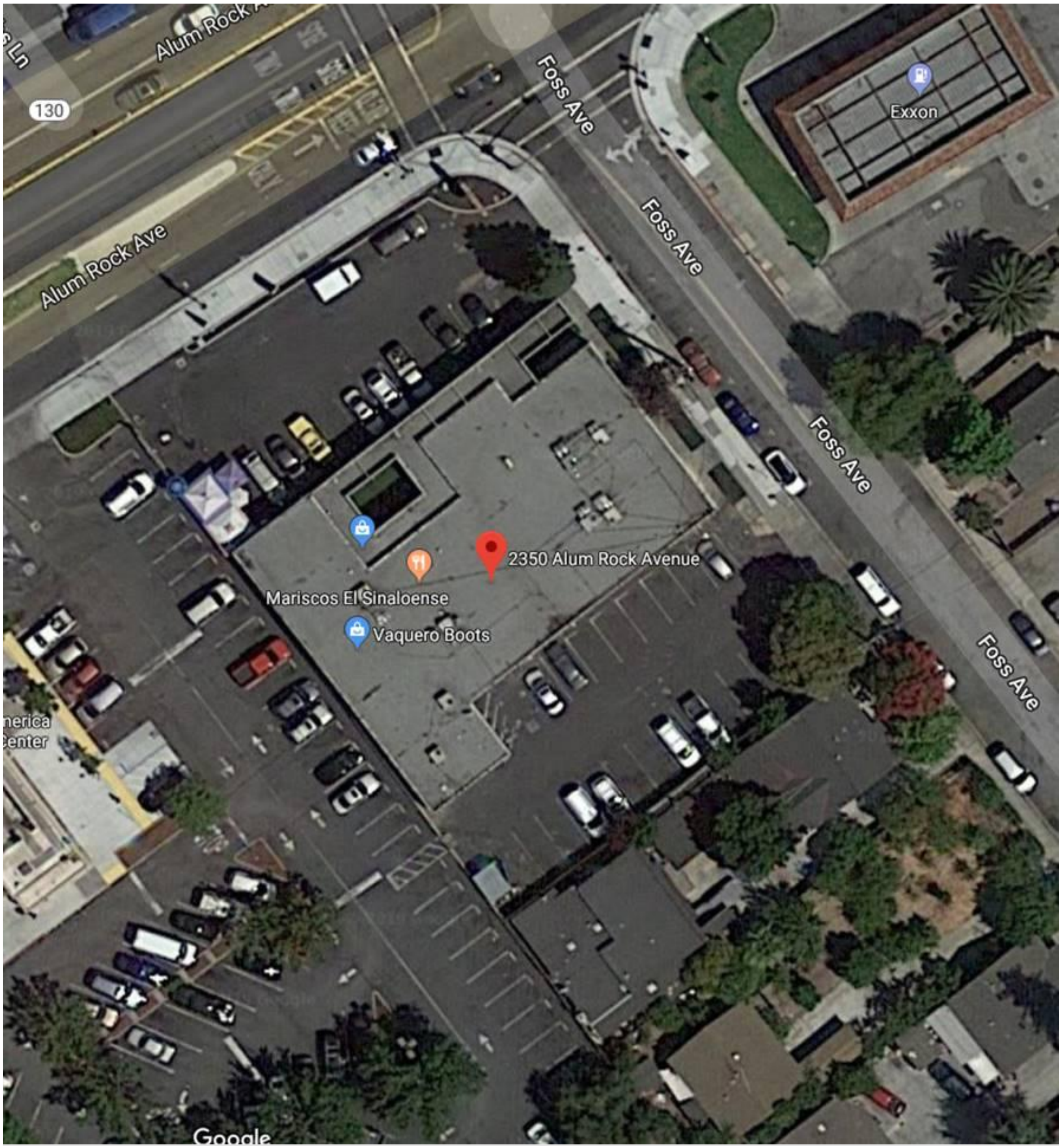
/s/	*/s/*
JULIA H. COOPER	JACKY MORALES-FERRAND
Director of Finance	Director, Housing Department

For questions regarding the financing structure contact Nikolai J. Sklaroff, Deputy Director, Debt & Treasury Management, at (408) 535-7832 for questions regarding the project contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.

Attachment A: Site Map

ATTACHMENT A – SITE MAP

2380 Alum Rock Avenue, San Jose, CA



ATTACHMENT Contiuned – SITE MAP