



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Rosalynn Hughey  
Rick Bruneau

**SUBJECT:** SEE BELOW

**DATE:** October 16, 2023

Approved

Date

10/24/23

**COUNCIL DISTRICT: 1**

**SUBJECT: APPROVAL OF AN EXCEPTION TO THE CITY MULTIFAMILY HOUSING REVENUE BOND POLICY ALLOWING STEVENS CREEK PROMENADE AFFORDABLE HOUSING DEVELOPMENT TO USE AN ALTERNATE BOND ISSUER**

## RECOMMENDATION

Adopt a resolution authorizing an exception to the City Council's Multifamily Housing Revenue Bond Policy 1-16, for the issuance of Multifamily Housing Revenue Bonds for the Stevens Creek Promenade development at 4300-4360 Stevens Creek Boulevard, due to special circumstances, thereby allowing the California Housing Finance Authority to issue the bonds.

## SUMMARY AND OUTCOME

Approval of this recommendation enables an affordable housing development located at 4300-4360 Stevens Creek Boulevard (Stevens Creek Promenade development) to move forward with the California Housing Finance Agency (CalHFA) as its alternate bond issuer, resulting in the development of 171 new affordable apartments and two managers' units.

## **BACKGROUND**

San José lacks a sufficient amount of affordable housing to meet residents' needs. The City's Regional Housing Needs Allocation for the 2023-2031 (sixth cycle) Housing Element is 62,200 housing units. Fifty-five percent of these units must be affordable (i.e., for extremely low-, very low-, low-, and moderate-income households.) Staff's Housing Catalyst Work Plan incorporates programs and strategies to produce and preserve affordable housing in alignment with the 2023-2031 Housing Element.

The City adopted a Multifamily Housing Revenue Bond Policy (Bond Policy)<sup>1</sup> 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 the City Council. The Bond Policy allows an alternate bond issuer when all of the following circumstances are met:

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

### ***Stevens Creek Promenade Affordable Housing Development***

#### **Development Project Description**

The Stevens Creek Promenade affordable housing development is located at 4300-4360 Stevens Creek Boulevard, as seen in **Attachment A: Site Map**; the site is 1.59 acres. The six-story affordable housing building is part of an overall master development on a 9.07-acre site.

**Attachment B: Development Renderings** provides renderings of the Stevens Creek Promenade affordable and market-rate units.

Miramar Property Group and Pacific West Communities, as co-developers, are proposing to build 171 affordable rental homes, of which 18 apartments will be reserved for extremely low-income households, 40 apartments will be reserved for very low-income households, and 113 apartments will be reserved for low-income households. The development will also include two unrestricted managers' units.

The master development plan includes the following:

- Stevens Creek Promenade development affordable housing (Building A);

---

<sup>1</sup> City Policy 1-16, *Policy for the Issuance of Multifamily Housing Revenue Bonds*

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

- Two market-rate residential buildings (Buildings B and C) totaling 407 apartments comprised of 34 studio units, 252 one-bedroom units, and 121 two-bedroom units;
- A 250-room hotel with approximately 8,500 square feet of ground floor retail space; and
- Two privately owned, publicly accessible paseos totaling 46,500 square feet.

The Stevens Creek Promenade development opted to build off-site to meet the inclusionary housing requirement for the market rate portion of the development. The Stevens Creek Promenade development’s affordable units represents 30% of the entire residential development, exceeding an inclusionary requirement of 20% of the market rate units being held for affordable households. The Stevens Creek Promenade development will enter into an affordable housing agreement with the City to deed restrict 81 of the affordable housing units under the Inclusionary Housing Ordinance. The remaining 92 units will be restricted through an agreement with the California Tax Credit Allocation Committee.

**Table 1** provides the Stevens Creek Promenade development’s affordability unit mix and area median income (AMI) levels.

**Table 1: Stevens Creek Promenade Affordability Unit Mix and AMI Levels**

UNIT SIZE	30% AMI			50% AMI			60% AMI			70% AMI			Manager's Unit	TOTAL
	Units	Max Income **	Rent Limits	Units	Max Income **	Rent Limits	Units	Max Income **	Rent Limits	Units	Max Income **	Rent Limits		
Studio	5	\$35,400	\$885	12	\$59,000	\$1,475	25	\$70,800	\$1,770	2	\$82,600	\$2,065		44
1-BD	4	\$40,440	\$948	10	\$67,400	\$1,580	21	\$80,880	\$1,896	2	\$94,360	\$2,212		37
2-BD	5	\$45,510	\$1,137	10	\$75,850	\$1,896	9	\$91,020	\$2,275	21	\$106,190	\$2,654		45
3-BD	4	\$50,550	\$1,314	8	\$84,250	\$2,190	4	\$101,100	\$2,628	29	\$117,950	\$3,066		45
Manager's Unit	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2	2*
<b>Total</b>	<b>18</b>			<b>40</b>			<b>59</b>			<b>54</b>			<b>2</b>	<b>173</b>

\* Unrestricted managers’ units

\*\*Maximum incomes limits are based upon California Tax Credit Allocation Committee occupancy guidelines of 1.5 persons per bedroom.

### **Construction Schedule**

The proposed affordable housing project, which will be a portion of the larger master planned development, will be the first component of the development to move forward. The affordable housing project will be developed in one phase. The anticipated construction phase will be approximately 29 months, beginning February 2024 and ending June 2026. **Attachment C: Affordable Housing Development Timeline** provides a detailed schedule for the overall master development.

### **Demolition and Relocation**

The site is comprised of three vacant commercial buildings. There are currently no tenants in these buildings; therefore, no relocation is needed. Off-site improvements will cost approximately \$1,857,000 and includes relocation of utilities and the removal of trees and other landscaping work.

### **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 that merit the needs of the development and the financing plan. The special circumstances that support an exception for this development are (1) the development has no City funding, (2) CalHFA's affordable housing financing programs require that CalHFA be the bond issuer, and (3) limited staff capacity to issue the bonds.

#### ***The Basis for Multifamily Housing Revenue Bonds Policy Exception***

The following reasons are the basis for staff's recommendation for an exception to the Bond Policy, to allow the Stevens Creek Promenade development to complete assembling its financing plan.

##### **1) The City does not have any subordinate funding in the development**

The Bond Policy was intended, in part, to protect the City's subordinate debt. The City does not have any subordinate funding in connection with the Stevens Creek Promenade development, so City issuance is not necessary.

The Stevens Creek Promenade development applied for a \$62,000,000 bond allocation from the California Debt Limit Allocation Committee (CDLAC) through CalHFA on May 23, 2023 and received the allocation award on August 23, 2023. This development has not requested financing from the City.

##### **2) CalHFA's affordable housing financing programs require CalHFA to be the bond issuer**

CalHFA's Tax-Exempt Permanent Loan Program provides tax-exempt, long-term financing for affordable multifamily rental housing projects. However, if CalHFA is providing a permanent loan, it requires that CalHFA must be used as the bond issuer. CalHFA has its own CDLAC allocation pool and has obtained the tax-exempt bond authority from CDLAC allowing the agency to issue the tax-exempt bonds. The Stevens

Creek Promenade development applied for and received a \$4,000,000 CalHFA Mixed Income Program subsidy loan. CalHFA requires that this must be paired with its Conduit Bond Issuer Program as well as Tax-Exempt Permanent Loan Program.

Similar to the City's requirements, the co-developers will enter into a Bond Regulatory Agreement with CalHFA that will be recorded against the development for the qualified project period. CalHFA also requires that all financing, leases, development, and regulatory agreements be subordinate to CalHFA financing. Since there is no City financing in this development, the City will not be subordinating to CalHFA.

**3) 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. The City Council approved seven of these developments for funding commitments, totaling 692 homes. Six of these developments co-applied with the City for their CDLAC bonds on August 9, 2022 and February 7, 2023. All six projects received a bond allocation award. The City closed financing on four of these six projects in May and June 2023. The remaining two applicants received their awards as announced on May 10, 2023. These two developments will need to close on financing by November 2023. There are four remaining Notice of Funding Availability proposers that will likely seek City Council approval for their City financing commitments in the first quarter of 2024, to prepare for their 2024 round one or two CDLAC applications.

The Housing Department, City Attorney's Office, and Finance Department staff have limited capacity with this current project pipeline and will work on these City multifamily housing revenue bond issuances through the end of 2023. These transactions will provide new revenue to the City. As such, considering the City's limited capacity for taking on any additional new construction affordable housing issuances in 2023, and the co-developers' need to obtain financing through the CalHFA Mixed Income Program, staff recommends a Bond Policy exception to allow this bond issuance through CalHFA.

**The Alternate Bond Issuer: CalHFA**

CalHFA was established in 1975 and is chartered as the state's affordable housing lender. The CalHFA Conduit Issuer Program provides access to tax-exempt and taxable bonds by developers that seek financing for eligible projects that provide affordable multifamily rental developments. CalHFA requests to be the alternate bond issuer for the Stevens Creek Promenade development.

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. CALHFA has no agreement with the City for Tax Equity

and Fiscal Responsibility Act hearings, therefore, CalHFA will hold a Tax Equity and Fiscal Responsibility Act hearing for the bond issuance.

### **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](http://www.sjhousing.org). If the recommended action is approved, the progress of the Stevens Creek Promenade development will be included in these periodic production reports.

### **COST SUMMARY/IMPLICATIONS**

Since the City will not be the bond issuer, the City will not collect bond administration fees. 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 \$62,000,000 for the Stevens Creek Promenade development, the City will forgo approximately \$180,000 in issuance fees and \$77,500 annually. These fees would be collected only if the City issued these bonds. **Table 2** provides the estimated foregone fee amounts.

*Table 2: Estimated Foregone Fee Amounts*

<b>Development</b>	<b>Estimated Bond Amount</b>	<b>Issuance Fee</b>	<b>Annual Monitoring Fee</b>
<b>Stevens Creek Promenade</b>	\$62,000,000	\$180,000	\$77,500

### **COORDINATION**

Preparation of this memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the November 7, 2023 City Council meeting.

HONORABLE MAYOR AND CITY COUNCIL

October 16, 2023

**Subject: Approval of an Exception to the City Multifamily Housing Revenue Bond Policy Allowing Stevens Creek Promenade Affordable Housing Development to Use an Alternate Bond Issuer**

Page 7

The method of notifying the community of CalHFA's intent to issue the tax-exempt private activity bonds is during a Tax Equity and Fiscal Responsibility Act hearing; these hearings are open to the public. The Stevens Creek Promenade development received an allocation on August 23, 2023. The Tax Equity and Fiscal Responsibility Act hearing will be held by CalHFA prior to the February 19, 2024 bond issuance deadline.

### **COMMISSION RECOMMENDATION AND INPUT**

No commission recommendation or input is associated with this action.

### **CEQA**

Addendum to the 4300 Stevens Creek Boulevard Mixed-Use Project Environmental Impact Report (Resolution No. 80668), File Nos. PDC20-021 and PD20-012.

### **PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/  
RICK BRUNEAU  
Director of Finance

/s/  
ROSALYNN HUGHEY  
Deputy City Manager and  
Acting Housing Director

The principal author of this memorandum is Banu San, Housing Policy & Planning Administrator. For questions, please contact Qianyu Sun, Deputy Director, Debt & Treasury Management at [qianyu.sun@sanjoseca.gov](mailto:qianyu.sun@sanjoseca.gov) or (408) 535-7832, or Ragan Henninger, Deputy Director, Housing Department, at [ragan.henninger@sanjoseca.gov](mailto:ragan.henninger@sanjoseca.gov).

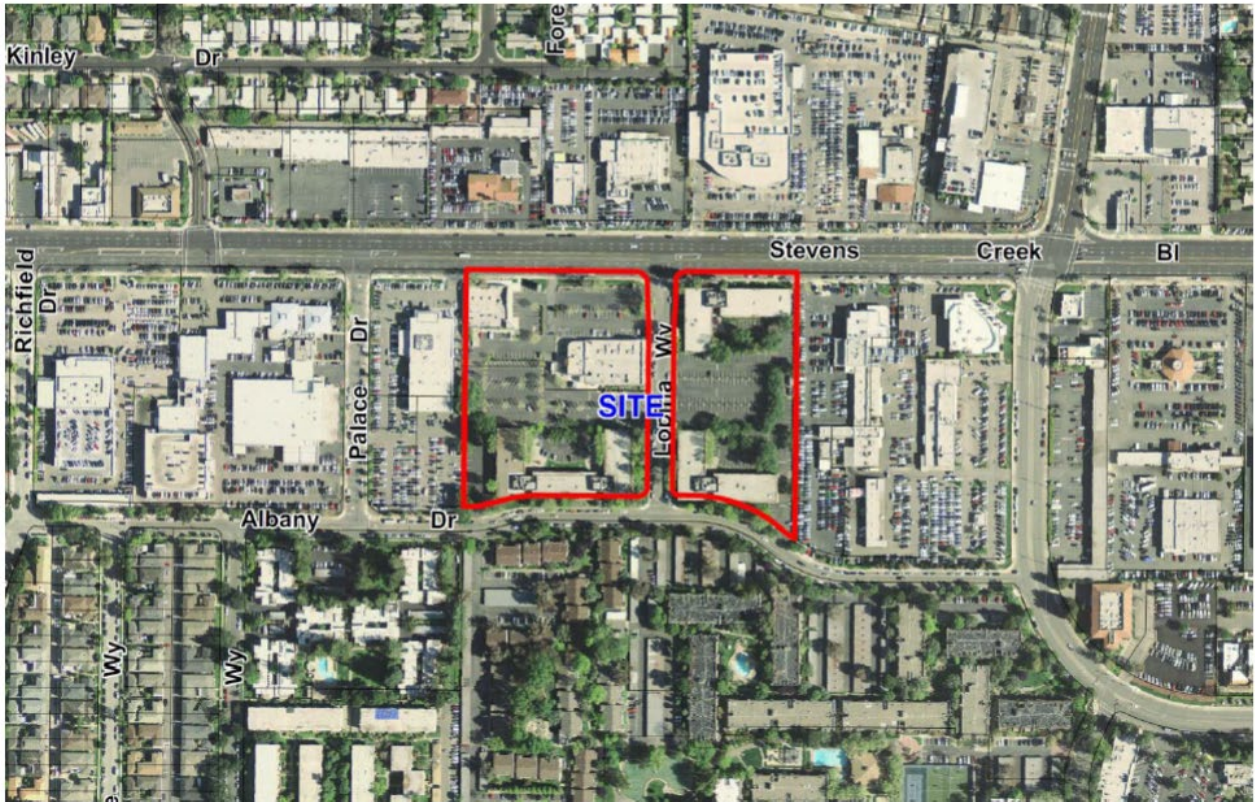
### **ATTACHMENTS:**

Attachment A: Site Map

Attachment B: Development Renderings

Attachment C: Affordable Housing Development Timeline

**ATTACHMENT A  
SITE MAP  
4300-4360 Stevens Creek Boulevard**





**ATTACHMENT B**  
**DEVELOPMENT RENDERINGS**  
**Stevens Creek Promenade**



STEVENS CREEK PROMENADE



STEVENS CREEK PROMENADE

**ATTACHMENT C  
AFFORDABLE HOUSING DEVELOPMENT TIMELINE**

<b>Task</b>	<b>Affordable</b>
Project Pre-Development	3/1/2023
Public Works and Mapping	11/1/2023
Permit Review and Preprocessing	11/1/2023
Final Map and Permit	3/1/2024
Demolition	1/1/2024
Offsite and On-Site Work	3/1/2024
Garage	11/1/2024
Units Framing	7/1/2025
Roofing and Weather Tight	11/1/2025
Interiors	12/1/2025
Building Completion	6/1/2026
Landscape and Site Completion	8/1/2026