CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR, CITY COUNCIL AND REDEVELOPMENT AGENCY BOARD

FROM: Debra Figone
Harry S. Mavrogenes

SUBJECT: **REDEVELOPMENT AGENCY HOUSING SET-ASIDE TAX ALLOCATION BONDS, SERIES 2010A, 2010B AND 2010C**

DATE: March 11, 2010

COUNCIL DISTRICT: Citywide

RECOMMENDATION

(a) Holding of a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing by the City in connection with the 2010A Bonds relating to certain affordable housing projects identified in Exhibit A.

(b) Adoption of a resolution of the Redevelopment Agency Board:

(1) Authorizing the issuance of the following series of Redevelopment Agency of the City of San Jose Merged Area Redevelopment Project housing set-aside tax allocation bonds;
   (a) Housing Set-Aside Tax-Exempt Refunding Tax Allocation Bonds, Series 2010A in an amount not to exceed $57,000,000 (the "2010A Bonds");
   (b) Housing Set-Aside Taxable Tax Allocation Bonds, Series 2010B in an amount not to exceed $12,000,000 (the "2010B Bonds"); and
   (c) Taxable Subordinate Housing Set-Aside Tax Allocation Variable Rate Bonds, Series 2010C in an amount not to exceed $93,000,000 (the "2010C" Bonds and collectively with the 2010A Bonds and 2010B Bonds, the "Bonds").

(2) Approving in substantially final form the Bonds, Eighth Supplemental Fiscal Agent Agreement, Subordinate Fiscal Agreement, a Continuing Covenant Agreement supplementing the Subordinate Fiscal Agreement, a Bond Purchase Agreement relating to the 2010A and 2010B Bonds, one or more Continuing Disclosure Agreements, a preliminary Official Statement relating to the 2010A and 2010B Bonds; authorizing the Agency's Executive Director and Chief Financial Officer to execute and, as appropriate, negotiate these documents and other related documents as necessary, after consultation with Bond Counsel and the Financial Advisor for the Bonds;

(3) Authorizing the Agency's Executive Director and Chief Financial Officer, and their designees, to take all necessary actions in connection with the issuance of the Bonds, and;

(4) Authorizing the Agency General Counsel to negotiate and execute an agreement with Hawkins, Delafield & Wood LLC, for a total amount not to exceed $270,000 for Bond Counsel and Disclosure Counsel fees.

(c) Adoption of a resolution of the City Council:

(1) Approving the issuance of the Bonds by the Redevelopment Agency; approving the execution and delivery of one or more tax regulatory agreements; and making a finding pursuant to Redevelopment Law that the Merged Area will benefit from the projects located outside of the Merged Area that are financed or refinanced by the Bonds;

(2) Authorizing the City Manager and her designees to take all necessary actions in connection with issuance of the Bonds, and;

(3) Certifying that a TEFRA hearing was held in accordance with applicable federal regulations.

OUTCOME

Approval of the recommended actions will allow for the issuance of the: (1) 2010A Bonds to refinance the Agency's $56,695,000 2005C and 2005D Bonds (defined below) which are otherwise subject to mandatory redemption on June 29, 2010 due to the expiration of the Bank of New York letter of credit which credit enhances those Bonds; (2) 2010B Bonds to finance issuance costs, reserve fund deposits associated with the 2010A Bonds and, if necessary, that portion of the 2005C and 2005D Bonds that cannot be refinanced on a tax-exempt basis; and (3) 2010C Bonds to (a) finance or refinance City loans for affordable housing developments which, in turn, will free up housing set-aside funds that will be loaned to the Agency to fund a portion of its Supplemental Education Revenue Augmentation Fund (SERAF) payment and (b) take out the $42,500,000 outstanding amount of the term loan from Bank of New York that resulted from drawing on the Bank of New York line of credit prior to its April 1, 2009 expiration date.

EXECUTIVE SUMMARY

This borrowing addresses several priority needs - refinance obligations caused by the expiration of the BNY LOC and BNY Line (each as defined below) over a longer term, generate sufficient cash flow to fund administrative costs and First Time Home Buyers and Rehabilitation loan programs over the next five fiscal years, and free up 20% low-mod housing funds that can be loaned to the Agency to assist with its SERAF obligation under State law.

On February 23, 2010 the City Council, San José Financing Authority, and Redevelopment Agency Board authorized the City Manager, the Authority Executive Director, and the Agency Executive Director to negotiate and execute a Loan Agreement to provide funds to the Agency in the total amount of $75 million from various funding sources, for the purpose of making the FY 2009-10 and 2010-11 payments related to the Supplemental Education Revenue Augmentation Fund (SERAF).[1]

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[1] The report on SERAF Financing Plan can be reviewed on the City's website at http://www.sanjoseca.gov/clerk/Agenda/20100223/20100223_sjfa02.pdf

The largest source of SERAF financing will be $40 million from the low-mod housing funds made available through the 2010C Bonds outlined in this memo. The balance of the funds will be provided through a loan from various City funds ($10 million) and through additional loans from the Low-Moderate Income Housing Fund ($25 million) facilitated through the issuance of Commercial Paper by the City of San Jose Financing Authority and loaned to the Housing Department for affordable housing projects.

The issuance of the 2010A Bonds and 2010B Bonds will refinance the 2005C and 2005D Bonds. As a result, the Housing Department's repayment obligations associated with the 2005C and 2005D Bonds will be amortized over a much longer period, its annual cash flow requirements will be eased and its future bonding capacity will be increased. The 2010A Bonds will be issued as fixed rate tax-exempt obligations and the 2010B Bonds will be issued as fixed rate taxable obligations, each secured by a senior lien on 20% housing set-aside tax increment. Assuming current market rates, the expected blended true interest cost of the 2010A Bonds and 2010B Bonds will be approximately 5.75%[2].

The issuance of the 2010C Bonds will be for two purposes. First, the 2010C Bonds will repay the BNY Term Loan and amortize the Housing Department's obligations over a longer period of time. Second, the 2010C Bonds will finance or refinance City loans made in connection with various affordable housing projects. In so doing, the 2010C Bonds will replace $40 million of funds that are currently set aside for pending affordable housing projects or have been previously loaned for other affordable housing projects. The replaced funds, then, can be loaned to the Agency for its SERAF obligations. The 2010C Bonds will be issued as variable rate taxable obligations secured by a subordinate lien on 20% housing set-aside tax increment. The 2010C Bonds will be placed directly with Wells Fargo Bank ("Wells Fargo"). The 2010C Bonds may be prepaid at any time without penalty.

Based on current increment levels, this financing approach will enable the Housing Department to fund its First Time Homebuyers Program and Rehabilitation Loan Programs for the next five fiscal years.

Assuming current housing tax increment receipts, debt service coverage is anticipated to be approximately 2.01 times with respect to the housing set-aside senior obligations (including the 2010A Bonds and 2010B Bonds) and approximately 1.53 times with respect to both senior and subordinate obligations.

The TEFRA hearing relates to affordable housing projects that were financed by the 2005C and 2005D Bonds and initially approved at a TEFRA hearing held on October 18, 2004. By holding a new TEFRA hearing in connection with these projects, the Agency will gain more flexibility in structuring the final maturity and amortization schedule associated with the 2010A Bonds.

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[2] Because of Federal tax limitations, the par of 2010A Bonds cannot exceed the par of the 2005C and 2005D Bonds being refunded. Therefore, the underwriters' discount that represents an element of the true interest cost calculation must be borne entirely by the 2010B Bonds (also known as a "taxable tail"). Because of the small size of the 2010B Bonds, the effect of having to fund the underwriters' discount has an exaggerated effect on its true interest cost. Accordingly, the true interest cost is presented on a blended basis.

BACKGROUND

On June 30, 2005, the Redevelopment Agency of the City of San Jose (the "Agency") issued $66,150,000 aggregate principal amount of Merged Area Redevelopment Project Subordinate Housing Set-Aside Tax Allocation Variable Rate Demand Bonds, Series 2005C and 2005D (the "2005C and 2005D Bonds"). The 2005C and 2005D Bonds financed or refinanced loans made by the City of San José (the "City") in connection with certain affordable housing projects. The BNY LOC guarantees the payment of principal of and interest on the 2005C and 2005D Bonds. The BNY LOC has an expiration date of June 29, 2010. In September 2008, Bank of New York announced that it had stopped issuing new letters or lines of credit in connection with municipal obligations ("credit facilities") and that it would not renew existing credit facilities upon their expiration. The expiration of the BNY LOC requires the Agency either to refund the 2005C and 2005D Bonds by June 29, 2010 or find a replacement letter of credit bank. Absent one of these actions, the outstanding bond amount of $56,695,000 will become a term loan payable in twenty quarterly installments of $2,834,750 plus accrued interest.

On March 18, 2003, the City and Agency entered into a Line of Credit Agreement with the Bank of New York to provide the $50,000,000 BNY Line to fund loans by the City, on a taxable short-term basis, to developers of affordable housing projects. Bank of New York's commitment to provide the BNY Line had an initial expiration date of April 1, 2005, and was extended for one year periods in 2005, 2006, 2007 and 2008, with a final expiration date of April 1, 2009. As Bank of New York indicated that it would not be renewing any existing credit facilities, the City drew down on the full amount of the Line of Credit before the April 1, 2009 expiration. Under the terms of the Line of Credit Agreement, the outstanding amount at the expiration date became a term loan (the "BNY Term Loan") requiring the City to repay outstanding principal in twenty equal quarterly installments ($2,500,000), plus accrued interest, commencing on July 1, 2009. The City has repaid $7,500,000 of the Term Loan; $42,500,000 remains outstanding.

The Agency has typically issued long-term housing set-aside tax allocation bonds on behalf of the Housing Department to take out draws on the BNY Line. Market conditions were not favorable for long-term taxable tax allocation bonds in April 2009.

In July 2009, Governor Arnold Schwarzenegger signed into law 26 bills to address the State's projected budget shortfall for the current fiscal year. The budget package requires California redevelopment agencies to pay into a new county Supplemental Educational Revenue Augmentation Fund a total of $1.7 billion in FY 2009-10 and $350 million in FY 2010-11 based on a formula. For the Agency, the impact is $62 million in FY 2009-2010 and $13 million in FY 2010-2011. The State legislation allows redevelopment agencies to borrow from housing set-aside moneys to fund their SERAF payments. The funding plan for the Agency includes a loan of $40 million in housing set-aside funds as approved by the City Council/Agency Board/City of San José Financing Authority Board on February 23, 2010.

ANALYSIS

This portion of the report is divided into several sections to address the items in staff's recommendation to proceed with the financing. These sections include: description of the bond financing structure, bond financing documents, discussion of the financing team participants, and a review of the financing schedule.

Bond Financing Structure

Overview of the Bonds The Bonds will be issued in three series in the following not to exceed amounts as described below:

- Housing Set-Aside Tax-Exempt Refunding Tax Allocation Bonds, Series 2010A (the "2010A Bonds"). The 2010A Bonds may be issued in a not to exceed amount of $57,000,000 and will refund the Housing Department's 2005C and 2005D Bonds on a tax-exempt basis. The 2010A Bonds take advantage of a provision in American Recovery and Reinvestment Act of 2009 which allows municipal issuers to refund certain tax-exempt bonds subject to the alternative minimum tax ("AMT"), such as the 2005C and 2005D Bonds, with lower yielding tax-exempt bonds that are not subject to AMT. Due to Federal tax law constraints, the par size of the 2010A Bonds is limited to the outstanding par of the 2005C Bonds and 2005D Bonds. Issuance costs and the debt service reserve fund requirement must be funded through another means – in this case, with proceeds from the 2010B Bonds (described below). The issuance of the 2010A Bonds is subject to completion of bond counsel's tax due diligence and analysis. The final outcome of such analysis will determine the final sizing of tax-exempt 2010A Bonds and whether any portion of the 2005C and 2005D must be refinanced on a taxable basis.

  The 2010A Bonds will be secured by senior lien pledge of 20% housing set-aside tax allocation revenues on a parity with the 1997E, 2003J, 2003K, 2005A, 2005B and 2010B Bonds. The 2010A Bonds will be issued as fixed rate bonds, with a combination of serial and term bonds depending on market conditions at the time of sale. The final maturity is anticipated to be August 1, 2035. Interest on the 2010A Bonds will be exempt from Federal and State taxation.

- Housing Set-Aside Taxable Tax Allocation Bonds, Series 2010B (the "2010B Bonds"). The 2010B Bonds may be issued in an amount of $12,000,000 and will: fund the costs of issuance, reserve requirements associated with the 2010A and 2010B Bonds and, if necessary, that portion of the 2005C and 2005D Bonds that cannot be refinanced on a tax-exempt basis.

  The 2010B Bonds will be secured by a senior lien pledge of 20% housing set-aside tax allocation revenues on a parity with the 1997E, 2003J, 2003K, 2005A, 2005B and 2010A Bonds (collectively with the 2010B Bonds, the "Senior Bonds"). The 2010B Bonds will be issued as fixed rate bonds with principal maturities structured in conjunction with the 2010A Bonds so as to provide level coverage of aggregate annual debt service of the Senior Bonds from housing set-aside tax increment. Interest on the 2010B Bonds will be taxable on a federal basis (although exempt from State of California personal income tax). To lower the Agency's borrowing costs, the 2010B Bonds will amortize before the 2010A Bonds.

- Taxable Subordinate Housing Set-Aside Tax Allocation Variable Rate Bonds, Series 2010C (respectively, the "2010C Bonds" and collectively with the 2010A Bonds and 2010B Bonds, the "Bonds"). The 2010C Bonds are expected to be issued in a principal amount not to exceed $93,000,000 and will (1) refinance the BNY Term Loan and (2) finance and refinance the City's gap loans made or to be made in connection with certain affordable housing developments. A portion of 2010C Bond proceeds will replace Housing funds currently obligated to those projects. The replaced funds will become available to lend to the Agency to meet its SERAF obligation.

  The 2010C Bonds will be secured by 20% housing set-aside tax allocation revenues on a basis subordinate to the Senior Bonds. The 2010C Bonds will be issued as multi-modal, variable rate bonds with a taxable interest rate that will reset every week. The 2010C Bonds will be purchased directly by Wells Fargo. The 2010C Bonds will have a single maturity anticipated to be no later than August 1, 2040, but with a scheduled mandatory tender date in three years and mandatory sinking fund redemption payments on August 1 of each year so as to produce level aggregate debt service coverage of the Senior Bonds and the 2010C Bonds from housing set-aside revenues, and produce sufficient cash flow after payment of debt service to fund the Housing Department's administrative costs and First Time Homebuyers and Rehabilitation Loan Programs during the next five fiscal years.

  Wells Fargo's commitment to purchase the 2010C Bonds is subject to the following terms[3]:
  - It has the right to tender the 2010C Bonds for purchase after three years.
  - The interest rate will be based on one month LIBOR plus a spread of 170 basis points.
  - The spread is subject to increase to 220 basis points in the event that the ratings on the Senior Bonds are downgraded to "A3" by Moody's or "A-" by Standard & Poor's and to 280 basis points in the event that the ratings on the Senior Bonds are downgraded to "Baa1" by Moody's or "BBB+" by Standard & Poor's.
  - The Housing Department cannot issue additional housing set-aside tax allocation bonds unless current fiscal year tax increment revenues cover aggregate maximum debt service on housing set-aside bonds by at least 1.25 times. This is more restrictive than the Housing Department's current additional bonds test which requires only 1.15 times coverage.
  - The City must use Wells Fargo as its primary depository bank for as long as Wells Fargo is the holder of the Bonds. If the City decides to change the banking relationship, the City would have to either refund the 2010C Bonds or renegotiate the terms the Agreement as direct purchaser of the 2010C Bonds.

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[3] Wells Fargo originally committed to provide a three year direct pay letter of credit in connection with a publicly offered bond issue secured by housing set-aside tax increment. Subsequently, it indicated that it could directly purchase a like amount of bonds subject to similar terms under which it would issue its letter of credit. Staff and its financial advisor determined the direct approach would result in a lower annual rate, lower transaction costs and lower renewal risk.

Assuming current market rates and the anticipated amortization schedule for the 2010A and 2010B Bonds, the expected blended interest cost of the 2010A and 2010B Bonds will be approximately 5.75%. As the 2010C Bonds are variable rate, it is not possible to identify a true interest cost for that transaction.

Given fiscal year 2009-10 assessed value, housing set-aside tax increment revenues are projected to cover maximum annual debt service on all Senior Bonds by approximately 2.01 times and on all bonds, including the subordinate 2010C Bonds, by approximately 1.53 times.

The table below shows both the original expected composition of the Agency's housing set-aside tax allocation bonded indebtedness following the issuance of the Bonds:

REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE
Bonded Indebtedness Payable from Housing Set-Aside Amounts
(Following Issuance of the Bonds)

	Original Par	**Par Amount Outstanding**
Senior Debt		
1997E	$17,045,000	$17,045,000
2003J	55,265,000	40,475,000
2003K	13,735,000	8,015,000
2005A	10,445,000	10,445,000
2005B	119,275,000	113,460,000
2010A	-	56,695,000
2010B	-	6,850,000
Total Senior Debt	**$215,765,000**	**$252,985,000,**
Subordinate Debt		
2005C	$33,075,000	-
2005D	33,075,000	-
2010C	-	$93,000,000
Line of Credit	**$50,000,000**	-
Total Subordinate Debt	**$116,150,000**	**$93,000,000**
Total Obligations	**$331,915,000**	**$345,985,000**

Estimated Sources and Uses of Bond Proceeds

The estimated sources and uses of bond proceeds based on current market conditions and the expected sizing of the Bonds without adjustment due to changes in the tax-analysis associated with the 2010A Bonds are shown in the table below:

REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE
Housing Set-Aside Tax Allocation Bonds, Series 2010A, 2010B and 2010C
Sources and Uses of Funds*

	Series 2010A	Series 2010B	Series 2010C	Total
Sources				
Par value	$56,695,000	$6,850,000	$93,000,000	$156,545,000
Original Issue Discount	(65,000)			(65,000)
Total Sources	**$56,640,000**	**$6,850,000**	**$93,000,000**	**$156,480,000**
Uses				
Repay 2005C and 2005D Bonds	$56,695,000	-	-	$56,695,000
Original Issue Discount	(65,000)	65,000		0
Repay Bank of New York line of credit/Term Loan	-	-	42,500,000	42,500,000
Reserve Fund Deposit		5,830,000		5,830,000
Deposit to (re)finance outstanding loans	-		50,000,000	50,000,000
Upfront Bank Fees/Bank Counsel	-	-	150,000	150,000
Underwriters' Discount/Issuance Costs		955,000	350,000	1,305,000
Total Uses	**$56,640,000**	**$6,850,000**	**$93,000,000**	**$156,480,000**

*Preliminary and subject to change.

Affordable Housing Loans to be Financed or Refinanced It is anticipated that a portion of the 2010C Bonds will finance or refinance loans for five affordable housing projects in the estimated amounts as shown in the table below:

REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE
Affordable Housing Loans to be Financed or Refinanced*

Project Name	Developer		Amount
Belovida	CORE		$12,661,702
Fairgrounds Senior	ROEM		4,230,000
Kings Crossing	Charities		4,213,719
Markham Terrace	Charities		15,000,000
North Fourth Street	First Community Housing		13,894,579
		Total	$50,000,000

* Preliminary, subject to change

Ratings and Credit Enhancement The 2010A and 2010B Bonds will carry unenhanced ratings from Moody's, Standard & Poor's and Fitch, which currently rate the Senior Bonds A2/A/A, respectively. The actual ratings, if available, will be reported at the March 23, 2010 City Council meeting. The Agency will also seek bond insurance from Assured Guaranty, which is the only bond insurer in the industry with at least one "AAA" rating from Standard & Poors.

The 2010C Bonds will not carry a rating. Wells Fargo, as purchaser, may transfer the 2010C Bonds only to "Qualified Institutional Buyers," which are sophisticated institutional investors as defined by Federal Securities Laws.

Manner of Sale Because of the complexity of the overall plan of finance, general credit and market issues associated with tax increment financing, the 2010A and 2010B Bonds will be sold through negotiated sale to the team of Underwriters consisting of Stone & Youngberg LLC and Bank of America Merrill Lynch. The Underwriters were selected following a request for proposal process in March 2009 in which seven firms submitted proposals and four firms were interviewed.

The 2010C Bonds will be purchased directly by Wells Fargo Bank.

Bond Financing Documents

There are a number of bond financing documents that require Agency Board and City Council approval to proceed with the issuance of the Bonds. The major documents are described below. These documents, in substantially final form, will be available for review in the City Clerk's Office on or about March 11, 2010. Staff recommends that the City Manager and Assistant Director of Finance, Director of Housing or her authorized designees and the Agency's Executive Director and Chief Financial Officer or his authorized designees (collectively, "Designated Officers") be authorized to execute agreements on behalf of the City and Agency, as the case may be. As modifications may be required prior to the closing of the Bonds, staff also recommends that the Designated Officers each be authorized to execute the final version of each of these agreements as may be modified upon consultation with the City Attorney's Office and the General Counsel of the Agency.

Official Statement This is the public offering document for the issuance of the 2010A Bonds and 2010B Bonds. The Official Statement is prepared by Disclosure Counsel in direct coordination with City and Agency staff. The Official Statement discloses material information on the 2010A Bonds and 2010B Bonds, including their purposes, payment and redemption terms, sources of security and repayment and financial information on the Agency. Investors use this information to evaluate the credit quality of the Bonds. A Preliminary Official Statement will be distributed in connection with the marketing of 2010A and 2010B Bonds.

The underwriters for the 2010A and 2010B Bonds will distribute the Preliminary Official Statement relating to these Bonds to potential purchasers.

Copies of the draft Official Statement along with Appendix A which generally describes the City's demographics and economics, in substantially final form, will be posted with the City Council Agenda for the March 23, 2010 meeting (at www.sanjoseca.gov) on or about March 11, 2010. Staff has carefully reviewed the information contained in the draft Official Statement and believes it to be accurate and complete in all material aspects.

If any Council member or Redevelopment Agency board member has any personal knowledge that any of the material information in the Official Statement is false or misleading, the member must raise these issues prior to approval of the distribution of the document. City and Agency staff, bond counsel, and the financial advisor will be available at the City Council/Board meeting on March 23, 2010 to address any questions, issues and/or concerns.

Staff recommends that the Designated Officers of the Agency be authorized to sign the Official Statement for the 2010A Bonds and 2010B Bonds and to make such modifications to these documents as may be necessary upon consultation with the City Attorney's Office and Office of General Counsel. Staff also recommends that the Designated Officers each be authorized to execute certificates regarding these documents as required to comply with securities law and to authorize the underwriters to distribute these documents for purpose of marketing the 2010A and 2010B Bonds.

Eighth Supplemental Agreement This document is between the Agency, as the issuer, and Wells Fargo Bank as Fiscal Agent. This document sets forth the terms of the 2010A Bonds and 2010B Bonds, sets up funds and accounts to be held by the Fiscal Agent, and contains the responsibilities and duties of the Fiscal Agent and the rights of the respective bondholders. This supplemental agreement is in addition to prior supplements and the original agreement authorizing prior parity debt issues.

Subordinate Fiscal Agreement This document is among the Agency, the City and Wells Fargo Bank as Fiscal Agent. This document sets forth the terms of the 2010C Bonds, including the applicable interest rate reset modes (e.g., index, daily, weekly, monthly), sets up funds and accounts to be held by the Fiscal Agent, and contains the responsibilities and duties of the Fiscal Agent and the rights of the respective bondholders. This document also sets forth the security features for the 2010C Bonds, including conditions under which parity bonds may be issued.

Continuing Covenant Agreement This document is among the Agency, the City and Wells Fargo Bank as purchaser. This document sets forth the terms under which Wells Fargo will purchase the 2010C Bonds, including its tender rights, determination of interest rate and financial covenants to be made the Agency and City with respect to the 2010C Bonds. A draft of this Agreement in substantially final form will be submitted with a Supplemental Memorandum by March 19, 2010.

Continuing Disclosure Agreement This is the form of certificate the Agency must provide in connection with fixed rate bond issues and satisfies the continuing disclosure rules and regulations for the issuance of 2010A and 2010B Bonds (SEC rule 15c2-12(b) (5)). The certificate obligates the Agency to continue to provide information regarding the Agency and the 2010A and 2010B Bonds to the secondary (bond) market as long as such Bonds are outstanding.

Bond Purchase Agreement The Bond Purchase Agreement is a contract between the Agency as the issuer of the Bonds, and the Underwriters as initial purchasers of the 2010A and 2010B Bonds. The Bond Purchase Agreements specify the purchase price, the time and place for closing, representations and warranties of the Agency, the documents to be executed at closing and the conditions that allow the purchasers to cancel the purchase of the 2010A and 2010B Bonds.

The amount of underwriters' discount for the 2010A and 2010B Bonds shall not exceed 1.25% of the aggregate bond size and the blended true interest cost shall not exceed 7.5%. The final maturity for the 2010A and 2010B Bonds shall not exceed August 1, 2040.

TEFRA Hearing

On October 18, 2004 and May 23, 2005, public hearings under the Tax Equity and Fiscal Responsibility Act of 1982 (each a "TEFRA hearing") were held with respect to the affordable housing projects listed in Exhibit A in connection with the 2005C and 2005D Bonds. To maximize the Housing Department's flexibility to restructure those Bonds with the 2010A Bonds, the City is required to hold a new TEFRA hearing to allow for public comment relating to the Bonds and the projects.

Financing Team Participants

The financing team participants consist of:

- 2010A&B Underwriters: Stone & Youngberg and Bank of America Merrill Lynch
- 2010C Purchaser: Wells Fargo Bank
- Financial Advisor: Ross Financial
- Bond and Disclosure Counsel: Hawkins, Delafield & Wood LLP
- Fiscal Agent: Wells Fargo Bank

Due to the complexity of the Bonds, Hawkins, Delafield &Wood, as Bond Counsel and Disclosure Counsel, has proposed a fee of $270,000 to be allocated, as practicable, among the various series that comprise the Bonds. Staff is recommending that Council authorize the Agency General Counsel to negotiate and execute an amendment to the contract with such firm for a total contract amount not to exceed $270,000, to be paid from Bond proceeds, and contingent on the sale of the Bonds.

Financing Schedule

The key dates in the balance of the financing schedule and key dates related to the SERAF payment and repayment dates are as follows:

City/Agency Approval	March 23, 2010
Sale of 2010A and 2010B Bonds	April 6, 2010
Sale of 2010C Bonds	April 19, 2010
Preclosing	April 19, 2010
Bond Closing	April 20, 2010
SERAF Payment FY 2009-10	May 10, 2010
SERAF Payment FY 2010-11	May 10, 2011
Repayment – SERAF FY 2009-10	June 30, 2015
Repayment – SERAF FY 2010-11	June 30, 2016

REDEVELOPMENT PROJECT AREA FINDINGS

Some of the loans financed or refinanced with proceeds of the 2010C Bonds are for affordable housing developments that are not located in a Redevelopment Project Area. Therefore it is required that the City make a finding, on behalf of the Redevelopment Agency, that any such use of redevelopment funds is of benefit to Redevelopment Project Areas. Since the preservation and maintenance of owner-occupied and rental housing for very low- and low-income families and households is identified as vital to support the City's economic growth, much of which is planned to occur in Downtown and industrial redevelopment project areas, staff recommends that the City Council find the use of any 20% Housing Funds for the rehabilitation of owner-occupied and rental housing in the City to be a benefit to these Redevelopment Project Areas.

EVALUATION AND FOLLOW-UP

This Memorandum presents the set of recommendations related to the City Council's approval of the issuance of the Bonds and requires no follow-up to the City Council or Agency Board. Once the Bonds close, anticipated in mid-April 2010, the Finance Department will provide an informational memorandum summarizing of the sale results to the City Council and Agency Board.

PUBLIC OUTREACH

- ☒ **Criterion 1**: Requires Council action on the use of public funds equal to $1 million or greater.
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

In addition to the standard outreach requirements, the community will be notified of the City's intent to issue tax-exempt private activity bonds by the City Council holding a Tax Equity and Fiscal Responsibility Act Hearing. The TEFRA Hearing is to be held on March 23, 2010 by the City Council at the same meeting scheduled for the approval of the Bonds. The public hearing notice was published in the *San José Mercury News* on March 8, 2010. The TEFRA Hearing relates only to 2010A Bonds.

COORDINATION

This report has been prepared by the Finance Department in coordination with the Redevelopment Agency, Office of General Counsel, the Housing Department, and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This action is consistent with the City's *2007-2012 Five-Year Housing Investment Plan*, adopted by City Council on June 12, 2007, to increase the supply of affordable housing, with the City's *Consolidated Plan 2005-2010* to provide housing units for very low- and extremely low-income households, and the Redevelopment Agency Budget approved on February 23, 2010.

COST IMPLICATIONS

No appropriation of funds is required at this time. The payment of debt service on the Bonds will be made from housing set-aside tax increment revenues beginning in FY 2009-10. Debt service on the 2010A and 2010B Bonds will commence on August 1, 2010. Debt service on the 2010C Bonds is anticipated to commence on May 1, 2010.

Compensation for the financing team participants (financial advisor, bond counsel and underwriters) as well as the costs of the financing are contingent on the sale of the Bonds and will be paid from Bond proceeds.

CEQA

CEQA determination will be described in the Supplemental Memorandum to be submitted to the Agency Board/City Council by March 19, 2010.

DEBRA FIGONE
City Manager

John Weis (for)
HARRY S. MAVROGENES
Executive Director

For questions, please contact Julia Cooper, Assistant Director of Finance at 408-535-7011.

EXHIBIT A

Projects to be re-heard at March 23, 2010 TEFRA Hearing

REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE Affordable Housing Loans to be Financed or Refinanced			
Project Name	**Developer**	**Amount**	**CEQA Reference**
Brooks House	1710 Moorpark Avenue, LP	$3,325,000	Neg. Decl. PDC00-063
Oak Tree Village	Branham Lane Apartments, LP.	$1,447,829	PDC02-033
Las Ventanas (Evans Lane)	Evans Lane Apartment, LP.	$1,368,706	Neg. Decl. PDCSH-01-10-096
Summer Breeze (Fallen Leaves)	Fallen Leaves Apartments, LP.	$3,631,294	Neg. Decl. PDC02-018
Paseo Senter I	Paseo Senter, LP.	$8,000,000	Neg. Decl. PDC03-057
Cinnabar Commons	Cinnabar Commons II LP.	$4,681,575	EIR Res. No. 71174
Delmas Park	Delmas Park Associates, LP.	$5,067,000	PDC03-016
Hacienda Villa Creek	Hacienda Villa Creek Senior Apartments, L.P.	$26,425	Mitigated Ne. Decl. PDC01-10-097
Turnleaf	Fairfield Turnleaf LP.	$2,951,000	Exempt PP02-11-331
Corde Terra Family (Fairgrounds)	Fairgrounds Luxury Family Apartments, LP.	$17,916,305	PDC02-040
Las Golondrinas	Las Golondrinas Housing Corporation	$3,052,171	Neg. Decl. PDC00-12-124
Almaden Family Apts	Almaden Family Housing Partners, LP.	$13,775,000	Neg. Decl. PDC-SH-98-089
		$65,242,305	