TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: ADMINISTRATIVE SERVICES

DATE: JULY 23, 2007 CMR: 315:07

SUBJECT: TEFRA HEARING AND APPROVAL FOR TAX-EXEMPT FINANCING FOR ALBERT L. SCHULTZ JEWISH COMMUNITY CENTER AND 899 CHARLESTON, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY THROUGH THE ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG) FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS

RECOMMENDATION
It is recommended that, after holding the public hearing, the Council approve the attached resolutions approving the tax-exempt financing through the ABAG Finance Authority for Nonprofit Corporations (ABAG Finance Authority) for the construction of the Albert L. Schultz Jewish Community Center and a new continuing care retirement community.

BACKGROUND
The Albert L. Schultz Jewish Community Center (JCC) has requested that the ABAG Finance Authority issue conduit tax-exempt debt in the amount of $160 million for the construction of a community center consisting of extensive outdoor social and recreational areas; gardens; play areas; terraces; a 57,000 square feet health and fitness club; a 21,000 sq. ft. theater; and space for early childhood education, youth and adult programs to be located in the City of Palo Alto. In addition, 899 Charleston, LLC (899) has requested that the ABAG Finance Authority issue conduit tax-exempt debt in the amount of $180 million to construct a new continuing care retirement community. In total, there will be two series of bonds for $340 million: one for the Albert L. Schultz Jewish Community Center and the second for 899 Charleston, LLC (the retirement community). Both projects will be located on a single multi-use 8.6-acre campus in Palo Alto known as the Taube-Koret Campus for Jewish Life.

Section 147(f)(2) of the Internal Revenue Code of 1986 requires that, in order for the interest on such debt to be exempt from income tax for investors, the “applicable elected representatives” of the host governmental unit must approve the issuance of the debt. Such approval must follow a public hearing that has been preceded by reasonable public notice (required public noticing has been conducted). This hearing and approval process is referred to as a “TEFRA” hearing, after the Tax Equity and Fiscal Responsibility Act of 1983.
DISCUSSION
Since the facilities to be financed with the proceeds of the ABAG Finance Authority’s debt are located within the jurisdiction of the City of Palo Alto, the City has been asked to 1) take action to become an associate member of the ABAG Finance Authority solely for this purpose, and 2) conduct the public hearing and to approve the debt as the host governmental unit.

The debt incurred to build the above mentioned projects would be payable solely by the borrower, the Albert L. Schultz Jewish Community Center and 899 Charleston, LLC. The City of Palo Alto would not be a party to the financing agreements. Incurred debt would not be secured by any form of taxation or any obligation of either the City or the ABAG Finance Authority. Neither would the debt represent or constitute a general obligation of either the City or the ABAG Finance Authority. In addition, the borrower must also provide comprehensive indemnification to ABAG Finance Authority and its members including the City. Any risk of nonpayment on bonds issued by the ABAG Finance Authority would be borne by the lenders.

As cited in the published notice, the public hearing is simply an opportunity for all interested persons to speak or to submit written comments concerning the proposal to issue the debt and the nature or location of the facility to be financed; however, there is no formal obligation on the part of the borrower or the Council to respond to any specific comments made during the hearing or submitted in writing.

The recommendation includes consideration of the City’s associate membership in the ABAG Finance Authority for Nonprofit Corporations, a Joint Power Authority managed by but existing separately from the Association of Bay Area Governments. As an associate member of this Authority, the City would provide public acknowledgement of the project financing as host jurisdiction. Associate membership in the Authority does not, however, obligate the City, in any way, to repayment of the debt nor does it involve any fees to be paid by the City. A copy of the Associate Membership Agreement is attached as Attachment D.

Based on the benefits of the projects to the Palo Alto community, and the lack of any financial obligations on the part of the City, staff recommends that Council approve the attached three resolutions. These include a resolution allowing City membership in the Finance Authority, and two resolutions approving the separate debt issues for the two projects mentioned in this report.

RESOURCES IMPACT
There are no resource impacts on the City as a consequence of Council’s action on the recommendation. The City’s membership in ABAG Finance Authority bears with it no cost or other financial obligation, but serves as a public acknowledgement of the project financing by the host jurisdiction. The City would in no way be obligated on the debt.

POLICY IMPLICATIONS
Actions recommended in this report are consistent with Council’s prior direction on the Jewish Community Center projects.

ENVIRONMENTAL REVIEW
Action on this item does not require environmental review.
ATTACHMENTS

Attachment A: Resolution of the Council of the City of Palo Alto Approving Associate Membership by the City of Palo Alto in the ABAG Finance Authority for Non Profit Corporations and the Execution of an Associate Membership Agreement Relating to Associate Membership of the City in the Authority

Attachment B: Resolution of the Council of the City of Palo Alto Regarding Approval of the Issuance of Variable Rate Demand Revenue Bonds by the ABAG Finance Authority for Non Profit Corporations to Finance the Acquisition, Construction, Installation and Equipping of a Cultural, Educational, Ethnical and Health Care Center and Certain Other Matters Relating Thereto

Attachment C: Resolution of the Council of the City of Palo Alto Regarding Approval of the Issuance of Variable Rate Demand Revenue Bonds by the ABAG Finance Authority for Non Profit Corporations to Finance the Acquisition, Construction, Installation and Equipping of a Continuing Care Retirement Community and Certain Other Matters Relating Thereto

Attachment D: Associate Membership Agreement