



# CITY COUNCIL STAFF REPORT



October 26, 2021

## ITEM TITLE

Land Use Amendments: Amendments to the Chula Vista General Plan, the Sunbow II General Development Plan, and the Sunbow II Sectional Planning Area Plan to Rezone an Existing Vacant Parcel from Industrial to Residential Use Resulting in 718 New Units

**Report Number:** 21-0124

**Location:** Sunbow, southeast corner of Brandywine Avenue and Olympic Parkway

**Department:** Development Services

**Environmental Notice:** Environmental Impact Report (EIR20-0002) has been prepared.

## Recommended Action

Conduct a public hearing and consider adopting:

- A) Resolution making certain findings of fact; adopting a Statement of Overriding Considerations; adopting a Mitigation Monitoring and Reporting Program and certifying the Final Environmental Impact Report (EIR-20-0002; SCH no. 2020110148) for the Sunbow II, Phase 3 Sectional Planning Area Plan, Sunbow II General Development Plan Amendment and Tentative Map pursuant to the California Environmental Quality Act;
- B) Resolution approving amendments to the Chula Vista General Plan (MPA20-0012) and the Sunbow II General Development Plan (MPA20-0013) to reflect land use changes for approximately 135.7 acres within the Sunbow II, Phase 3 Planned Community, including associated text, maps and tables;
- C) Resolution amending the Sunbow II Sectional Planning Area Plan (MPA20-0006) to update Chapters 10.0 to 17.0, to describe and define the amended land use for Sunbow II, Phase 3 and incorporate the development regulations and design guidelines specific to this Project;
- D) Ordinance approving the Sunbow II, Phase 3 Project to rezone from limited industrial to residential uses allowing up to 534 multi-family medium-high-density dwelling units and 184 multi-family high density residential dwelling units on six parcels, a 0.9-acre Community Purpose Facility site, on-site streets, open space and MSCP Preserve Open Space **(FIRST READING)**;
- E) Resolution approving Tentative Subdivision Map CVT20-0002 (PCS20-0002) for a 135.7-acre site for 718 multi-family residential units, known as the Sunbow II, Phase 3 Project; and
- F) Ordinance approving a Development Agreement between the City of Chula Vista and ACI Sunbow, LLC (MPA21-0014) for the Sunbow II, Phase 3 Project **(FIRST READING)**.

## SUMMARY

In January 2020, the Chula Vista City Council approved a Community Benefit Agreement (the “CBA”) to allow ACI Sunbow, LLC, the owner of an undeveloped site in the Sunbow master planned community, to process entitlements to consider changing the land use from limited industrial to residential use. This site was formally marketed as the “Sunbow Business Park” and is generally located southeast of the intersection of Brandywine Avenue and Olympic Parkway. Subsequently, in February 2020, an application was submitted requesting land use amendments to allow up to 718 multi-family residential units within a 135.7-acre area. In addition to the residential units, the land is proposed for Multiple Species Conservation Program Preserve land, a Community Purpose Facility site, manufactured slopes and basins, Poggi Creek Conservation Easement areas, a wetland resource preservation area and associated infrastructure.

## ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (“CEQA”) and has determined that there is substantial evidence, in light of the whole record, that the project may have a significant effect on the environment; therefore, the Director of Development Services has caused the preparation of an Environmental Impact Report, EIR20-0002 and associated Mitigation Monitoring and Reporting Program.

## BOARD/COMMISSION/COMMITTEE RECOMMENDATION

On July 28, 2021, the Planning Commission voted 6-0, with one Commissioner absent, to recommend the City Council deny the Project (Attachment 10, Planning Commission Minutes Resolution). Letters of opposition received by the Commission are also included in Attachment 10. The Planning Commission cited the following reasons for their recommendation:

- Maintaining the industrial land uses on the Project Site as identified in the General Plan is important to achieving a jobs/housing balance and economic vitality within the City;
- The financial and other benefits negotiated in the proposed Development Agreement do not outweigh the lost value of the industrial land designation;
- The Project, as presented, is not in the best overall interests of the City in light of the close proximity of residential land uses to the landfill and the lack of commercial/industrial development opportunities; and
- The Project as proposed is one hundred percent residential and they are interested to see further evaluation as to whether a mix of uses could work on the site.

## DISCUSSION

In 1990, the City of Chula Vista authorized development of the 604.8-acre Sunbow II Sectional Plan Area (the “SPA”). The adopted Sunbow II SPA Plan established the land use districts, special uses and conditions, comprehensive sign regulations, off-street parking requirements and administrative procedures for development and implementation of the Sunbow community (Attachment 1, Summary of Prior Approvals). Since that time, all land has been developed except for the subject vacant parcel, which is referred to as Sunbow II, Phase 3. The parcel was identified as a 46.0-acre Industrial Park, Planning Area 23 (“PA23”), in the adopted Sunbow II SPA Plan.

### Site History & Necessity of Amendments

ACI Sunbow, LLC (the “Applicant” or “Owner”) has been marketing the PA23 property for industrial uses since the early 2000s. Due to the topography of the land, the entire site must be graded at the same time. According to the Applicant, this has been challenging as most industrial users have expressed interest in a 5-10-acre site, however it is difficult to find an end user or developer willing to purchase all developable acres in PA23 and undertake the site preparations necessary for an end user. The Applicant initiated similar efforts to rezone the property in 2004 in conjunction with the General Plan Update and subsequently in 2009, however neither effort was brought forward for discretionary action.

On January 7, 2020, the Chula Vista City Council approved the CBA between the City of Chula Vista and the Owner to allow initiation of the entitlement process to consider the conversion of the PA23 land to residential uses (approved via Resolution No. 2020-003) [Attachment 2, Community Benefit Agreement (ACI Sunbow, LLC 1-7-20)]. Per the CBA, the Applicant would provide \$8.0 million in funding (the “Job Enhancement Funds”) that can be used by the City to direct the construction of either:

1. Class “A” office building(s) that would facilitate high quality job enhancement uses along the SR-125 corridor on City or non-profit owned land;
2. Commercial/academic building(s) that can facilitate either academic or private-sector market-rate project(s) to advance the vision of the University Innovation District (such as enabling the development of an Institute for International Studies); or
3. Some other notable project at the City’s discretion.

In order to receive the Job Enhancement Funds, the CBA requires City approval of all stated entitlements for development of the Project Site (as defined below), including a General Plan Amendment (“GPA”), General Development Plan (“GDP”), SPA amendment, Development Agreement, and vesting tentative map. As part of the CBA, the City reserved its right to exercise discretion as to all matters that the City is by law entitled or required to exercise its discretion with respect to the entitlements, including, but not limited to CEQA and other similar laws. This includes reserving the full discretionary authority of the Planning Commission and the City Council to consider the proposed entitlements at a future public hearing, with the benefit of environmental review, plans, technical studies, and full staff analysis.

### Proposed Amendments

On February 26, 2020, the Applicant submitted an application requesting amendments to the area generally located southeast of the intersection of Brandywine Avenue and Olympic Parkway (Attachment 3, Locator Map). Based upon more precise engineering currently available, the Sunbow II, Phase 3 development area acreage has been refined and encompasses 67.5 acres, with the remaining 68.2 acres designated as Multiple Species Conservation Program (“MSCP”) Preserve land, Poggi Creek Conservation Easement areas and a conserved wetland resource area (the “Project Site”), and as proposed would include:

#### *Development Area (67.5 acres)*

- 44.2 acres of residential (718 units on 6 parcels);
- 0.9-acre Community Purpose Facility (“CPF”) site;
- 5.9 acres of public streets; and
- 16.5 acres of manufactured slopes and basins.

### *Open Space Land (68.2 acres)*

- 4.3 acres of proposed Poggi Canyon Easement areas;
- 0.3-acre conserved wetland resource area; and
- 63.6 acres of adjacent MSCP Preserve areas.

The application includes a proposed MSCP Boundary Line Adjustment, which would modify the limits of the Sunbow II, Phase 3 development area and increase the MSCP Preserve area by approximately 0.09 acres. The Applicant is proposing to rezone the developable PA23 land from limited industrial to residential uses, allowing up to 534 multi-family medium-high-density and 184 multi-family high-density residential dwelling units (718 total units) on six parcels (the “Project”).

### Compliance with Council Policy No. 400-02 (Public Participation)

A virtual Community Meeting was held by the Applicant on March 24, 2021 via Zoom. The City’s project manager attended the meeting along with over 30 members of the public. The Applicant provided a project briefing and community members asked various questions and voiced concern related to vehicular traffic, traffic noise, on-site wildlife movement, schools, and water seepage issues from the Robinhood Point Homeowners Association. Residents/property owners within 500-feet and Homeowners Associations within 1,500 feet of the Sunbow II, Phase 3 Project Site were notified of the Community Meeting. Community members attending the meeting primarily indicated opposition to the project.

### Project Analysis

#### *FEIR 20-0002*

CEQA Section 21002 requires that an Environmental Impact Report (“EIR”) identify the significant effects of a project on the environment and provide measures or alternatives that can mitigate or avoid these effects. EIR20-0002, was prepared and assigned a State Clearinghouse identification number (SCH No. 2020110148) to analyze such impacts of the Project (Attachment 4, Environmental Impact Report EIR 20-0002). As required, the following public review periods were provided:

- Notice of Preparation pursuant to Section 15082 of the CEQA Guidelines (November 9, 2020 – December 9, 2020); and
- Notice of Availability of the Draft EIR (March 15, 2021 – April 28, 2021).

Pursuant to Public Resources Code (“PRC”) Section 21081 (b) and CEQA Guidelines Section 15093(a) and (b), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits of a project against its unavoidable environmental risks when determining whether to approve a project. If the specific benefits of a project outweigh the unavoidable adverse environmental effects, those effects may be considered “acceptable” (14 CCR 15093[a]).

EIR20-0002 and associated Mitigation Measures and Reporting Program (“MMRP”) were prepared for the Project and concluded that the Project could result in significant effects on the environment regarding: biological resources; cultural and tribal cultural resources; geology and soils; hazards and hazardous materials; public services; recreation; and wildfire (Attachment 4a, EIR Appendices – Appendix M: MMRP). The City finds that the inclusion of certain mitigation measures as part of the approval of the proposed project would reduce most, but not all, of those effects to less-than-significant levels. Those impacts that are not reduced to less-than-significant levels are identified and overridden due to specific

benefits of the project (Attachment 5, EIR20-0002 Findings of Fact and Statement of Overriding Consideration). These impacts include the following items in Greenhouse Gas Emissions:

- Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; and
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

During the public review period, five comments were received. In accordance with CEQA Guidelines Sections 15088 and 15204, the Applicant has evaluated the comments and prepared written responses describing the disposition of any significant environmental issues raised (Attachment 4, Environmental Impact Report EIR 20-0002 – Section 1.1, Preface Response to Comments). On June 16, after the close of the public comment period, Caltrans sent the City a comment letter raising the following issues regarding the I-805 interchange and off ramp intersections:

- Recommendation that the Adaptive Traffic Signal Control (ATSC) be a project mitigation instead of fair share contribution;
- Alternative improvements should the ATSC not be implemented;
- Request for additional information on existing storage, queue length and impacts at the I-805 off ramps in the Transportation Impact Analysis (TIS); and
- Suggested additional improvements to enhance pedestrian and bicycle infrastructure.

The Applicant prepared a response and City staff has met with Caltrans and believes the concerns have been adequately addressed and will not result in any changes to the EIR or MMRP (Attachment 4b – Caltrans Letter and Applicant Response).

While the CEQA analysis concluded that no significant adverse environmental impacts exist in the Health Risk Assessment related to the Otay Mesa Class III landfill located south and southeast of the site (the “Landfill”), this site in part was originally approved for industrial use due to its proximity to it. Pursuant to the Agreement Between the County of San Diego and the City of Chula Vista Regarding Jurisdiction Over and Operation of Otay Landfill, entered into as of May 15, 1996, and in order to maintain the public health and safety of potential residents surrounding the Landfill, the City established a 1,000-foot buffer around the Landfill in the General Plan (the “Landfill Buffer”). No residential uses may be approved within the buffer without a General Plan Amendment. In conformance with the General Plan all residential uses in the proposed Project are outside the 1,000-foot buffer area.

As part of the EIR process the Project was reviewed under the Phase I Environmental Site Assessment and the Health Risk Assessment in the EIR MMRP. The project site was further analyzed under a limited soils vapor investigation performed by Geosyntec in January 2020 to address potential environmental concerns related to the operation of the Landfill. The soil vapor investigation conducted on January 24 and 27, 2020 documented methane was not detected in the samples, indicating that the landfill gas control system (LFGCS) is effectively controlling the migration of methane from the Landfill. In addition, the Landfill is equipped with a landfill gas control system (LFGCS) and a perimeter probe monitoring network which is routinely monitored under the direction of the County of San Diego Local Enforcement Agency. Current estimates indicate that the Landfill will be decommissioned in 2030.

### *Chula Vista General Plan (MPA20-0012)*

The Chula Vista GP identifies Sunbow as being an efficient self-contained village. The Applicant's proposed amendments will remain consistent with the Chula Vista General Plan Land Use & Transportation, Economic Development, Housing, Public Facilities & Services, Environmental and Growth Management objectives and policies (Attachment 6, Chula Vista General Plan Amendment Justification Report).

In order to analyze the impact of industrial land use conversion on other uses within the City, the City contracted with HR&A Advisors, Inc. to provide an analysis of industrial uses [Attachment 6, Chula Vista General Plan Amendment Justification Report - Attachment B: Sunbow II, Phase 3 Market and Financial Analysis of Industrial Use (HR&A 2021)]. The study summarizes the existing land available for industrial uses and provides an overview of the South Bay region market, future demand for such uses and resulting anticipated surplus or deficit within Chula Vista. This effort included an extensive examination at a parcel level of the existing land uses within the City that could potentially be developed for industrial use based on current zoning, as well as environmental and developable land considerations. A summary of the key findings includes:

- Analysis of Industrial land:
  - *Approximately 428 acres of Chula Vista's land with industrial zoning is developable.* Given a range of floor-area-ratios from 0.25 to 0.40, this land could accommodate 4.7 to 7.5 million square feet (SF) of development.
  - *Chula Vista currently has enough developable land to accommodate projected growth in industrial employment through 2050.* The City could see an increase in industrial employment of 1,475 to 3,125 new jobs, demanding 118 to 239 acres of industrial land through 2050. If that amount of land were developed, the City would still have 190 to 311 acres of surplus vacant developable industrial land.
  - *Industrial entitlements do not guarantee either industrial uses or job-intensive uses.* For example, the Eastlake cluster of industrial zoned land currently contains 69 acres of non-industrial uses, including some such as gyms that have low employment densities.
- The Project as currently approved for industrial land:
  - *Represents 10 percent of Chula Vista's remaining developable industrial land.* The site contains approximately 42.5 developable acres, compared to 428 across the entire City.
  - *Has both strengths and weaknesses with respect to marketability for industrial development.* Easy freeway access via Olympic Parkway to I-805 could be attractive to an industrial developer, although other vacant industrial properties have similar proximity to a freeway (e.g., Eastlake's access to SR 125). Compared with other properties, the Site is relatively distant from existing industrial clusters, with the nearest cluster—Main Street East—being a 3-mile drive from the Site.
  - *Size would be an advantage for an industrial developer.* The approximate 42.5 developable acres could accommodate large floorplates and truck maneuverability and support economies of scale.
  - *Topographical variation on the site is a barrier to industrial development due to the expense and time associated with grading and associated site development preparation.* The estimated cost for grading and infrastructure is approximately \$27 million.
  - *Industrial development on the Site is unlikely to be financially feasible.* A land sale price above \$20.48 per SF may be sufficient to earn the landowner a reasonable return; however, of the

five comparable land sales in the past 2 years, with a range from approximately \$11.50 to \$18.00 per square foot, none met this threshold. Additionally, more than two decades of marketing the Site for industrial use has not yielded any development.

*Sunbow II General Plan Development Plan Amendments (MPA20-0013)*

Amendments to the Sunbow II GDP update the land use summary for the Sunbow II, Phase 3 area and eliminate various sections in the original report as development standards are included in the Sunbow II, Phase 3 SPA Plan Amendment (Attachment 7, Sunbow II General Development Plan Amendment Report).

*SPA Plan Amendments (MPA20-0006)*

The adopted Sunbow II SPA Plan, approved in 1990, established the vision for Sunbow and defined the land use character and mix of uses, design criteria, circulation system, and public infrastructure requirements for the Project. This Project updates Chapters 10.0 to 17.0, to describe and define the amended land uses for Sunbow II, Phase 3 and incorporate the development regulations and design guidelines specific to this Project (Attachment 4a, EIR Appendices – Appendix B: Sectional Planning Area Plan Amendment). The Project also includes revisions to planning documents associated with the 1990 Sunbow II SPA Plan as well as additional plans and studies currently required by the City of Chula Vista. Updated or new information supersedes the corresponding sections in the 1990 Sunbow SPA Plan.

Some Project specific items of note in the proposed SPA include:

- Community Purpose Facilities (CPF) – In accordance with Chapter 19.48 of the Chula Vista Municipal Code (CVMC) the Project generates the requirement for 3.2-acres of CPF land. The Project will provide a community recreation facility on 0.9-acres, with amenities in compliance with CVMC Section 19.48.040(B)(6), generally in the center of the development. The remaining 2.3 acre CPF requirement will be waived as defined in the Development Agreement, in order for the City to accept a “Community Purpose Facilities Benefit Funds” payment of \$1.7 million to be utilized by the City to fund a community serving facility on land in the City’s western territories that would not otherwise have been available for such community service use. Payment shall be made prior to the issuance of the building permit for the 240th unit.
- Parkland Acquisition and Development Fees/Quimby Fees (the “PAD Fees”) – In-lieu of PAD Fees due per CVMC Chapter 17.10, the Owner shall pay the City a “Park Benefit Fee” equal to the PAD Fees that would have otherwise been due pursuant to Chapter 17.10, using the PAD fee rates in effect as of the Effective Date of the Development Agreement. The Park Benefit Fees may be used to acquire or develop parkland within the City of Chula Vista, as the City deems appropriate and in the best interest of the City.
- Design Review Approval – The Project shall be subject to the City of Chula Vista Design Review Process as set forth in CVMC Section 19.14.581 through 19.14.600, except that the Zoning Administrator shall have the authority for review and approval of any application/parcel with 200 or fewer multi-family residential units, as outlined in the Sunbow II, Phase 3 SPA Plan Amendment.

The following appendices to the Sunbow II, Phase 3 SPA have also been prepared for the Project:

- Plant Palette

The SPA provides a list of acceptable plants that may be used in the Sunbow II, Phase 3 landscape. Provided as Appendix A to the SPA Plan, the Plant Palette was prepared with a focus on the landscape transitioning to a naturalized palette at the project perimeter to blend with the existing native character of the existing slopes and MSCP Preserve area located along the northern edge of the site. The plant palette is composed of durable and low water use/drought tolerant plants which are easily maintained (Attachment 4a, EIR Appendices – Appendix B: Sectional Planning Area Plan Amendment).

- Public Facilities Financing Plan and Fiscal Impact Analysis

The original Sunbow II Public Facilities Financing Plan (PFFP) was adopted by City Council Resolution No. 15525 on January 24, 1990. The preparation of the Supplemental PFFP is required in conjunction with the preparation of the Sunbow II, Phase 3 SPA Plan Amendment for the Project to ensure that the phased development of the Project is still consistent with the overall goals and policies of the GP, the City's Growth Management Program, and the Sunbow II GDP to ensure that the development of the Project will not adversely impact the City's Quality of Life Threshold Standards.

The Sunbow II, Phase 3 Fiscal Impact Analysis (FIA) was also updated in January 2021. The results generated from the fiscal model meet the requirements of CVMC 19.09.040 and demonstrate that the proposed project will generate a fiscal surplus in all years as further described below in "Fiscal Analysis."

The Supplemental PFFP and updated FIA prepared for the Project meets the growth management policy objectives (Attachment 4a, EIR Appendices – Appendix B: Sectional Planning Area Plan Amendment).

- Air Quality Improvement Plan

Since approval of the Sunbow SPA Plan, the City has adopted changes to the Air Quality Improvement Plan (AQIP) guidelines consistent with the City's Growth Management Program. The revised AQIP reflects changes in the Sunbow II, Phase 3 SPA Plan and changes in Building and Energy Codes. Applicable action measures contained in the City's Climate Action Plan that apply to the Sunbow II, Phase 3 SPA Plan Amendment are addressed (Attachment 4a, EIR Appendices – Appendix B: Sectional Planning Area Plan Amendment).

- Fire Protection Plan

The Fire Protection Plan (FPP) prepared for the Project meets applicable Fire and Building Code requirements or offers alternative materials and methods for complying with the codes. The Project's overall on-site fire potential would be lower than its current condition due to conversion of areas of wildland fuels to managed landscapes, managed fuel modification areas, improved accessibility to firefighting personnel and equipment, and new structures built to the latest ignition resistant codes (Attachment 4a, EIR Appendices – Appendix H3: Fire Protection Plan ).

- Water Conservation Plan

The Water Conservation Plan (WCP) addresses the City's Growth Management Ordinance (CVMC 19.09.050C) and Landscape Water Conservation Ordinance (CVMC 20.12) by reviewing available



technology and practices to conserve water in residential settings (Attachment 4a, EIR Appendices – Appendix L3: Water Conservation Plan).

*Tentative Map for Sunbow II, Phase 3 (PCS20-0002)*

The subject Tentative Map (the “TM”) identifies lot numbers, gross acreage, land use, and allocates residential units for each parcel. The TM also provide notes for condominiums, fuel modification zones, waivers, etc. Street sections and street layouts ensure construction of the street and pedestrian connections envisioned in the SPA Plan. The TM includes twenty-two (22) lots for the development of 718 residential units (6 lots), a community purpose facility (1 lot), Poggi Creek Conservation Easement (3 lots), open space (9 lots), and open space preserve (3 lots) on the Project Site (Attachment 8, CVT20-0002 Tentative Map).

In order to stabilize development at the southwestern corner of the proposed development and allow additional units to be built, a buttress is proposed. The buttress would encroach upon an approximate 15-foot by 470-foot (or approximately 7,200-square foot) area of City property that is designated for future park use. The City found that allowing the buttress on City-owned land would not significantly impact the future park design. Therefore, the City and Applicant agreed that in order to ensure the buttress is constructed and maintained by the Applicant, the Applicant will pursue the purchase of the property impacted by the buttress from the City, as more fully described in the Development Agreement.

*Sunbow II, Phase 3 Development Agreement (MPA21-0014)*

The amendments cause the need to enter into a Development Agreement with the Owner to ensure all required fees and ordinance requirements are being satisfied, inclusive and in replacement of the items set forth in the Community Benefits Agreement. California Government Code section 65864 et seq. authorizes cities to enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property. A development agreement is a contract negotiated between the project proponent and the public agency that specifies certain mutual benefits negotiated for a particular project and vests, subject to certain conditions in the agreement, the rights of the project applicant to develop the property under current land use regulations for a specified term.

Through City Resolution No. 11933 (adopted in 1985), the City Council has determined that development of large projects within the City create unique and complex development considerations and that, in addition to the minimum requirements for development agreements contained in the Government Code, additional procedures and requirements for the consideration of development agreements shall be contained within each individual agreement. The Development Agreement presented here includes the requirements for development agreements contained in the Government Code, as well as additional procedures and requirements designed to address the unique and complex development considerations presented by the Project.

The following discussion summarizes significant deal terms proposed in the Development Agreement [Attachment 9, Development Agreement (ACI Sunbow, LLC)] and describes the fundamental terms of the agreement.

### Significant Deal Terms

- Jobs Enhancement Fund – City shall receive \$8 million to direct construction for job enhancing uses in eastern Chula Vista as described in the “Site History & Necessity of Amendments” section above.
- Affordable Housing Obligation – Extension and increased affordability of Villa Serena Senior as described in the “Housing Impact” section above.
- Community Purpose Facilities Benefit Fund – Waiver of a portion of the 3.2-acre onsite CPF obligation (0.9 acres provided onsite and 2.3 acres waived) and payment of \$1.7 million to the City as described in the “SPA Plan Amendments (MPA20-0006)” section above.
- Park Benefit Fee – Owner shall pay such fee as described in the “SPA Plan Amendments (MPA20-0006)” section above.
- Purchase of Land – The Applicant shall pursue the purchase of property from the City at fair market value to construct and maintain the buttress as described under the “Tentative Map for Sunbow II, Phase 3 (PCS20-0002)” section above.

### Other Terms of the Agreement

The Development Agreement contains the following additional major points:

- The term of the Development Agreement will be fifteen (15) years, with two additional ten (10) year terms, at Owner’s sole option.
- For the Term of the Development Agreement, the Owner shall have the vested right to develop the property pursuant to the Tentative Map, Development Agreement, and existing land use laws, regulations and policies.
- The Development Agreement shall run with the land and benefit and bind future owners should the Owner sell or transfer ownership.

### Conclusion

The General Development Plan for the 604.8-acre Sunbow Planning Community was adopted by the City Council in 1989. The Sunbow II, Phase 3 Industrial Park property is the last remaining undeveloped portion of the original Sunbow SPA Plan, which also includes a neighborhood commercial center, 1,977 residential dwelling units (1,128 single family and 849 multifamily), parks, and the City’s Fire Station No. 3. In 2004, the Applicant submitted a formal GPA request for the Project Site to change the land use designation to residential. That application was held in abeyance pending the City Council approval of the General Plan Update. The City Council approved the General Plan Update in 2005 and the land use designation remained Limited Industrial (IL). In 2009, the Applicant pursued the 2004 GPA application, and on May 13, 2009, the Planning Commission recommended the City Council deny the proposed amendment. The GPA was scheduled for City Council on June 2, 2009, but the application was withdrawn by the Applicant on the day of the public hearing.

In April 2019, after approximately 30 years of what the Applicant describes as no interest from the market in investing in the public improvements and grading necessary to develop the Project Site for industrial uses, the Applicant submitted a request to initiate a GPA and rezone to develop approximately 700 multifamily dwelling units and an 8-acre commercial office development on the Project Site. As part of the review of the 2019 initiation request, staff questioned the economic viability and benefit to the City of an isolated office land use along with residential land uses. In response to these issues the Applicant prepared and submitted an Employment Projection Analysis and a Fiscal Impact Analysis. The Employment Projection Analysis

concluded that commercial office uses in general produce a higher number of jobs than light industrial land uses. The fiscal analysis identified that a modest amount of commercial use would offset the fiscal impacts of a market rate housing development.

In order to encourage development of viable employment lands in eastern Chula Vista that will also serve as a catalyst for development of a university campus, City staff asked the Applicant for alternative solutions to achieve the City's goals and address the continued contention that the industrial development market cannot overcome the necessary site construction costs of the Sunbow industrial site. The result was the previously described CBA, which provides for the developer to contribute \$8.0 million in Job Enhancement Funds which can be used by the City to direct the construction of either 1) a class "A" office building(s) that would facilitate high quality job enhancement uses along the SR-125 corridor on City or non-profit owned land; 2) Commercial/academic building(s) that can facilitate either academic or private-sector market-rate project(s) to advance the vision of the University Innovation District (such as enabling the development of an Institute for International Studies); or 3) some other notable project at the City's discretion.

Development of the Project Site for industrial uses is consistent with the General Plan and the City's economic development goals. And, while the site is relatively distant from existing industrial clusters, the thought has been that its easy freeway access and size should make it an appealing site for industrial users. Further, the Project Site was originally designated as Limited Industrial largely because of its proximity to the active Otay Landfill. The greatest challenge to developing the site for industrial uses is the topographical variation of the site and the significant time and expense associated with grading and associated site development (estimated to total approximately \$27 million). As described in the Industrial Lands Analysis, the City is currently projected to have sufficient developable land to accommodate projected growth in industrial employment through 2050, even with approval of this rezone. If a rezone is not approved, it is likely the site would remain undeveloped until market conditions move sufficiently to make development of the site for industrial uses economically feasible.

On July 28, 2021, the Planning Commission unanimously recommended denial of the Project, with one commissioner absent, citing the following findings and concerns: 1) maintaining the industrial land uses on the site as identified in the General Plan is important to achieving a jobs/housing balance and economic vitality within the City; 2) the financial and other benefits negotiated in the proposed Development Agreement do not outweigh the lost value of the industrial land; and 3) the Project, as presented, is not in the best overall interests of the City in light of the close proximity of residential land uses to the Landfill and the lack of commercial/industrial development opportunities. The Planning Commission also noted their interest in exploring the feasibility of a mix of land uses on the Project Site, as opposed to the all residential development proposed.

Since the City Council's approval of the CBA in 2020, several relevant issues have evolved. In 2020, it had been 5 years since a significant rezoning of non-residential to residential was considered by the Planning Commission or the City Council (Freeway Commercial, approved in 2015). In 2020 and 2021, the rezone of both the 676 Moss Street Project and the Village 3 industrial site have been considered, and ultimately approved. In each circumstance, the Planning Commission voiced concerns related to the City's jobs/housing balance and achieving our economic development goals. These were each also significantly smaller parcels than the rezone proposed with this action. Over this same period, demand for industrial land has increased and vacancy rates are declining. In addition, the City's understanding of the challenges of residential development proximate to an active Landfill has grown, as we receive complaints from residents regarding odors, seagulls, and dust. Finally, the CBA was recommended with the understanding that the Applicant

would meet all other regulatory requirements. The Applicant has instead negotiated additional waivers and considerations through the proposed Development Agreement, as previously described. While an argument can be made for each variance requested, the granting of such additional waivers and considerations was not contemplated with the CBA.

In summary, there are reasonable arguments that can be made in favor of the Project and reasonable arguments that can be made against the Project. Arguments in favor of the Project include: (1) historical challenges in developing the Project Site for industrial uses and the likelihood that the Project Site could remained undeveloped for some time until industrial development is economically feasible; (2) the conclusion that the City has adequate industrial land to meet our reasonably foreseeable needs through at least 2050; and (3) \$8.0 million in Job Enhancement Funds to construct a Class “A” office building or other desirable use within the University Innovation District Master Plan area or within the SR-125 corridor. Arguments against the Project include: (1) the significant loss of industrial acres and associated employment, further exacerbating the City’s existing jobs/housing imbalance; (2) no new affordable housing units; (3) and the proximity of residential units to the Landfill.

**DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov’t Code §87100, *et seq.*).

Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

**CURRENT-YEAR FISCAL IMPACT**

All application fees and processing costs are borne by the Applicant, resulting in no net impact to the General Fund or the Development Services Fund in the current fiscal year.

**ONGOING FISCAL IMPACT**

Based on the adjusted Fiscal Model, the proposed project is estimated to generate between approximately \$46,461 and \$270,928 per year in net City municipal revenues during the first 20 years of operation and a cumulative total net revenue of approximately \$3.3 million over the same period, as summarized in the table below [Attachment 6, Chula Vista General Plan Amendment Justification Report - Attachment C: Sunbow II, Phase 3 Fiscal Impact Analysis (DPFG 2021)].

<b>Projected</b>					
<b>General Fund Impact</b>	<b>Year 1</b>	<b>Year 5</b>	<b>Year 10</b>	<b>Year 15</b>	<b>Year 20</b>
Annual Revenues	\$ 278,400	\$ 1,245,606	\$ 1,430,915	\$ 1,635,064	\$ 1,928,194
Annual Expenditures	(231,939)	(1,108,535)	(1,277,366)	(1,451,182)	(1,657,266)
<b>Annual Net Impact</b>	<b>\$ 46,461</b>	<b>\$ 137,071</b>	<b>\$ 153,549</b>	<b>\$ 183,882</b>	<b>\$ 270,928</b>
<b>Cumulative Net Impact</b>	<b>\$ 46,461</b>	<b>\$ 499,639</b>	<b>\$ 1,118,882</b>	<b>\$ 2,017,747</b>	<b>\$ 3,281,323</b>

**ATTACHMENTS**

1. Summary of Prior Approvals
2. Community Benefit Agreement (ACI Sunbow, LLC 1-7-20)
3. Locator Map
4. Environmental Impact Report EIR 20-0002
  - a. EIR Appendices
  - b. Caltrans Letter and Applicant Response
5. EIR20-0002 Findings of Fact and Statement of Overriding Consideration
6. Chula Vista General Plan Amendment Justification Report
7. Sunbow II General Development Plan Amendment Report
8. CVT20-0002 Tentative Map
9. Development Agreement (ACI Sunbow, LLC)
10. Planning Commission Minutes Resolution
11. Resolution A - FEIR20-0002 Final Environmental Impact Report
12. Resolution B - MPA20-0012 General Plan Amendment and MPA20-0013 General Development Plan Amendment
13. Resolution C - MPA20-0006 Sunbow II, Phase 3 Sectional Planning Area Plan Amendment
14. Ordinance D - MPA20-0006 Rezoning the Sunbow II, PA23 Project Area
15. Resolution E - CVT20-0002 Tentative Map
16. Ordinance F - MPA21-0014 Development Agreement with ACI Sunbow

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